



經濟部智慧財產局

INTELLECTUAL PROPERTY OFFICE  
MINISTRY OF ECONOMIC AFFAIRS

July - September 2015

## Quarterly Report on Taiwan's Intellectual Property Rights Protection

*TIPO joined with the EETO and EBRC to hold the “2015 EU-Taiwan Seminar on Internet Copyright Protection” at the International Conference Hall, College of Law, National Taiwan University on September 18, 2015. Taiwan and EU copyright experts were invited to the seminar. The speakers include Tamas Kenesse, legal officer of DG CNECT of the EC; Anne-Catherine Milleron, INPI intellectual property attaché, Economic Service, Embassy of France in South Korea; EU IPR experts and scholars, Taiwan representatives from TIPO, Taiwan High Prosecutors Office, right holders and ISPs. The speeches not only covered the latest updates on Taiwan and the EU's related laws and enforcements but also featured “strengthening cooperation between right holders and ISPs”. The participants were encouraged to share experiences at the seminar, which had achieved fruitful results.*

## Special Report

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### TIPO attends the 41<sup>st</sup> APEC/IPEG meeting

A delegation led by TIPO's Deputy Director General Hong, Shu-min attended the 41<sup>st</sup> APEC/IPEG meeting as well as a seminar on the US trade secret held in Cebu, Philippines on August 22-23, 2015. At the meeting, the delegates reported on "Strengthening Patent Portfolios for Industries and Universities" and shared experiences and exchanged views with participants from member states.

### 2015 Patent Seminar

TIPO joined with the NTU's College of Law, and Taiwan Patent Attorneys Association to hold the "2015 Patent Seminar- An International Viewpoint on Claim Construction and Inventive Step" at the International Conference Hall of the NTU's College of Law on August 28-29, 2015. The speakers include Judge Raymond T. Chen from the United States Court of Appeals for the Federal Circuit; Dr. Peter Meier-Beck, presiding judge of the German Federal Court of Justice; Dr. Daniele Semino from the EPO; Mr. Christian Hannon from the USPTO; Quo-Tang Lin, director of Patent Division III of the TIPO; Dr. Joo Sup Kim, vice president of LG Electronics Inc.; and renowned patent lawyers Mr. James Yoon and Mr. Gary Ma. The agenda comprises the important role and functions of the courts in the patent system from the perspectives of the courts and industries; patent claim interpretation in the US and German patent litigations; the claim construction and legal standards in judging non-obviousness in terms of the EPO, USPTO, and TIPO's practices as well as the US PTAB trials. Nearly 200 people, including judges from the IP Court, patent agents, and representatives from academia, government, and industries attended the seminar.

### 2015 National Training Workshop on Identification of Counterfeit Goods

The Customs Administration, Ministry of Finance, and the IPR Business Partnership co-hosted the "2015 National Training Workshop on Identification of Counterfeit Goods" on September 14-15, 2015. The workshop aims to enhance customs officers' capabilities of identifying counterfeit products so as to reinforce border enforcement for trademark right. A total of 85 people from the Department of Prosecutorial Affairs and Investigation Bureau of the Ministry of Justice, TIPO, and National Police Agency of the Ministry of Interior attended the seminar.

### INPI Attaché Milleron Visits TIPO and Related Organizations

Accompanied by Pierre Moussy, head of Economic Department of the French Office in Taipei, Anne-Catherine Milleron, INPI intellectual property attaché from Economic Service, Embassy of France in South Korea, visited TIPO on September 17. Both sides exchanged views on IP examiners' training, Taiwan-France IP cooperation, and internet copyright protection. On the same day, Ms. Milleron also visited the Customs Administration and shared experiences on IPR border control measures and relevant implementation results.

### 2015 EU-Taiwan Seminar on Internet Copyright Protection

TIPO joined with the EETO and EBRC to hold the "2015 EU-Taiwan Seminar on Internet Copyright Protection" at the International Conference Hall, College of Law, National Taiwan University on September 18, 2015. Taiwan and EU copyright experts were invited to the seminar. The speakers include Tamas Kenesse, legal officer of DG CNECT of the EC; Anne-Catherine Milleron, INPI intellectual property attaché, Economic Service, Embassy of France in South Korea; EU IPR experts and scholars, Taiwan representatives from TIPO, Taiwan High Prosecutors Office, rightholders and ISPs. The speeches not only covered the latest updates on Taiwan and the EU's related laws and enforcements but also introduced the topic of "strengthening cooperation between right holders and ISPs". Experts specialized in relevant practices shared their experiences and had great interactions with attending scholars, government officials, and industry professionals. The attendees include nearly 200 representatives from academic institutions, government organizations, and industries.

## Legislative Amendments

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### TIPO promulgates "Notice on Trademark Dispute Examination Procedures"

To accelerate the examination process of trademark dispute cases, TIPO promulgated the "Notice on Trademark Dispute Examination Procedures". TIPO stipulated the Notice to improve the examination procedures based on the situations commonly seen to delay the process in real practices. The improvement measures include directly entering into the substantive examination phase ex officio without going through the procedure of Cross-examination and hearing. The Notice comprises matters relating to shortened examination time and effective management. The related information was posted onto TIPO's website on September 1, 2015.

### Joint royalty rates of public performances of songs using karaoke machines for public interests

TIPO designated Music Copyright Society of Chinese Taipei (MUST) as the single window for joint royalties on public performances of songs using karaoke machines for public interests. The joint royalty rates are decided as follows:

1. For exploiting a work for cultural, educational, or other purposes in the public interests, the rate is NT\$6,300 (pre-tax) per karaoke machine per year.
2. For exploiting a work in the public interests without any profit-making purpose, the rate is NT\$3,150 per karaoke machine per year.

The rates have been adopted since August 1, 2015. Any community center equipped with karaoke machines for the community people to use for public interests may pay MUST the joint royalty to obtain authorization from three CMOs in one time. This is expected to facilitate faster and more convenient authorization and have better prices.

## Latest Developments

### TIPO Builds Information Platform: “IP for SMEs”

Government authorities successively introduced counselling and supporting measures for IP creation, protection, exchange, and applications. To help SMEs utilize these IP resources, TIPO created a new web page, titled “IP for SMEs” as an information platform. There are three major sections on the web page: 1) “IP”: FAQs about IPR; 2) “IPR Services and Counselling”: IPR resources from government authorities, including R&D and innovation, financial support, technology transaction and commercialization, brand marketing, establishment of management system, and IP dispute settlement; and 3) “IPR Resources and Applications”: IPR learning, awards, exhibitions, and activities.

### Cross-Strait Copyright Working Group Meeting and Exchange Forum

TIPO and National Copyright Administration of mainland China (NCAC) had a working group meeting on July 20, 2015. Representatives from the Ministry of Culture, National Palace Museum, and Taiwan Association for Copyright Protection (TACP) attended the meeting. A delegation from mainland China was led by Yan Xiaohong, chairman of Copyright Society of China (also deputy director of State Administration of Press, Publication, Radio, Film, and Television and NCAC) also attended the forum. Both sides exchanged views on related issues, including the cases that TIPO reported to the coordination assistance authority in mainland China, enhancing online copyrights protection for P2P infringement problem, media box, and mainland China’s 2015 “Sword Net Action” against IP infringement.

### 2015 2<sup>nd</sup> IPR Protection Interagency Coordination Meeting

The Ministry of Economic Affairs (MOEA) convened the “2015 2nd IPR Protection Interagency Coordination Meeting” on August 19. The Customs Administration of the Ministry of Finance presented a feature report on the Customs’ investigations for trade mark infringement of express consignments. In addition, the Investigation Bureau of the Ministry of Justice reported on its investigations for trade secret crimes. Meanwhile, the results of the IPR Action Plan implemented from January to June this year were also reviewed at the meeting.

### TIPO Chairs Seminar on Free Rides on Others’ Commercial Reputation and Dead Copy

TIPO had a seminar on the current regulations governing the unfair competitive conduct relating to free rides (taking advantage of) on others’ commercial reputation and dead copy on August 4, 2015. The seminar discussions focused on the recent amendment to Article 22 of the Fair Trade Act. Currently, only Articles 29-33 of the Fair Trade Act cover the civil liability for unlawful acts of using others’ unregistered symbols, commonly known to the public. If the administrative sanctions on free rides and dead copy remain unchanged, it may result in legal debates in this regard. At the seminar, attending scholars and experts urged the Fair Trade Commission to specify the types of free rides and dead copy for the courts and all circles when amending Article 25 of the Fair Trade Act in the future. Hence, the plaintiffs may request for civil remedy support even if there are no administrative interventions by the Fair Trade Commission.

### 8<sup>th</sup> Cross-Strait Patent Forum

The 2015 Cross-Strait Patent Forum was held in Guangzhou on September 22-23. Over 200 people from the competent authorities and industries on both sides attended the forum. A total of 43 people from Taiwan were present at the forum, including TIPO’s Director General Wang Mei-Hua, Chinese National Federation of Industries (CNFI) Secretary General Tsai Lien-sheng, IP Court Division-Chief Judge Chen Jhong-Sing, as well as experts from the government, industries, academia and research institutions. The mainland Chinese attendees include SIPO’s Deputy Commissioner He Zhimin, Guangdong Province Vice Governor Chen Yunxia, and Guangdong Intellectual Property Office’s Chief Executive Ma Xianmin, and industry representatives.

At this forum, both sides had in-depth exchange and discussion on several issues, including the latest patent developments, updates on patent laws, as well as patent examination challenges and solutions of IP courts. Industrial representatives from both sides shared their practices and experiences on international patent portfolios and litigation management. These representatives include vice presidents and general counsels from Taiwan’s HTC, Mediatek, and TSMC, as well as senior IP directors from mainland China’s ZTE, Tencent, and Tasly.

### Judicial Yuan Promotes Litigation E-filing System

To promote judicial transparency and increase the public’s trust in the judicial system, the Judicial Yuan established an e-filing system for administrative litigations filed with the IP Court. The new system was launched on July 20, 2015. In addition, the Judicial Yuan announced the amended the “Rules Governing Submission of Litigation Paper by Telefax or Any Technological Device” on July 14. The Rules specifies the effect of such submission service so as to help enhance the efficacy of the courts’ automated case management system.

### “Office of Promoting Protection for Traditional Intellectual Creations of Indigenous Peoples” set up

The Council of Indigenous Peoples set up the “Office of Promoting Protection for Traditional Intellectual Creations of Indigenous Peoples” in March, 2015. The Council had 18 meetings on protecting traditional indigenous intellectual creations in eastern Hualien, Central Taiwan, and Southern Taiwan, attracting 411 people. A proposal on the project for funding benchmark applications for exclusive rights of traditional indigenous intellectual creations was approved in August. 16 groups were selected for the funding program and funded a total amount of NT\$3.22 million. Meanwhile, five sessions of the work camp for the benchmark groups were held respectively in eastern Hualien, Kaohsiung, Nantou, and Miaoli.

## Enforcement and Latest Statistics

### National Police Agency (NPA)

#### 1. Enforcement News (July-September 2015):

From July to September 2015, a total of 678 infringement cases involving 797 suspects were discovered (including 188 copyright cases with 252 suspects and 490 trademark cases with 545 suspects). The total market value of all the seized goods was estimated by right holders at NT\$2,232,668,173. The above cases were transferred to district prosecutor's offices for further investigation according to Taiwan laws.

#### 2. Enforcement results (July-September 2015)

Nearly 600 counterfeit Durex condoms with unspecified production materials were found after enhanced investigations on online shopping websites. They have been transferred to district prosecutor's offices for further investigations on charges of violating the Trademark Act.

#### 3. International Exchange

- (1) The IPR Police had a lecture for criminal investigators on September 10, 2015. The speaker from CODA (Content Overseas Distribution Association) gave a lecture on distinguishing genuine and fake animation products.
- (2) The director responsible for LV's (Louis Vuitton) Asia-Pacific IPR affairs visited the IPR Police Office on September 14, 2015. The IPR Police introduced a plan for training IPR police to enhance their ability to effectively distinguish counterfeit and genuine products. Any trainee that passes the identification test will be issued a certificate. The goal of the training is to shorten the time period for identifying counterfeit brand-name products.
- (3) Givenchy's IPR director for its Asia-Pacific affairs visited the IPR Police Office on September 15, 2015. The IPR Police mentioned about the plan to follow the Customs Administration's step to jointly hold seminars with the IPR Business Partnership. The purpose of the seminar is to give real-time investigation feedbacks to corresponding companies.
- (4) Ms. Simpson, Executive Director of the International Copyright Enforcement and Trade Policy of the Association of American Publishers (AAP), visited IPR Police Office on September 16, 2015. The IPR Police suggested Ms. Simpson persuade the AAP to help disseminate a message in the AAP's website and publications. That is, in Taiwan, the IPR Police are in charge of all IP infringement cases.
- (5) Japan's Intellectual Property Promotion Association (IPPA) visited the IPR Police Office on September 16, 2015 to exchange views on investigations on infringement of IPPA's porn videos and our district prosecutors offices' rulings of such cases.

#### Statistics for IP Infringement Cases

Unit : case/person

Year	Total		Trademark		Copyright		
	No. of Cases	No. of Suspects	No. of Cases	No. of Suspects	No. of Cases	No. of Suspects	No. of CDs Confiscated
2015 Jul. -Sept.	1,262	1,433	749	879	513	614	5,448
2014 Jul. -Sept.	1,401	1,689	789	902	612	787	230,505
Percentage Change: 2015/2014 Jul. -Sept.	-9.92	-15.16	-5.07	-9.20	-16.18	-21.98	-97.64

Source: National Police Agency (NPA), Ministry of the Interior

### Joint Optical Enforcement Taskforce (JODE)

From July-September 2015, JODE conducted 124 inspections (124 daytime) of OD factories, printing plate factories and other related facilities. This total is 55 times less than those of the same period last year (179 inspections; 95 daytime and 84 nighttime). In addition, JODE conducted 18 documented audits of the internal control and audit systems of outstanding OD factories after advising them on the establishment of such systems.

#### JODE's Inspection Results (July-September, 2015)

Number of Inspections		2014		2014		2015	
		Jan.-Dec.		Jul.-Sept.		Jul.-Sept.	
		660		179		124	
		Day	Night	Day	Night	Day	Night
		399	261	95	84	124	0
Number of Cases Found Violating the Optical Disk Act		0		0		0	
Number of Plants Closed	Manufacturing Plants	0		0		0	
	Packaging Plants	0		0		0	
Number of Cases Prosecuted		0		0		0	
Number of Suspects Prosecuted		0		0		0	
Number of Administrative Dispositions Administered According to the Optical Disk Act		0		0		0	
Number of Machines Confiscated		0		0		0	
Number of Illegal ODs (Pieces) Confiscated		0		0		0	

Source: The Joint Optical Disk Enforcement Taskforce (JODE), Ministry of Economic Affairs

Customs Administration, Ministry of Finance

1. Inspection Results:

In compliance with the Regulations Governing Customs Measures in Protecting the Rights and Interests of Trademark, Operational Directions for Customs Authorities in Implementing Measures for Protecting the Rights and Interests of Patent and Copyright, and other border measures, the Customs Administration from July to September 2015 yielded the following results:

Category	Trademark Violations		Copyright Violations		Export ODS Without Source ID Code	False Declaration of Source ID Code	Violation of SID Code
	Exports	Imports	Exports	Imports			
Cases	0	27	1	3	0	4	95
Number	0	2,372	14	278	0	205,460	-

2. Major Inspections

Taipei Customs’ discoveries of counterfeit goods: 5 Rolex watches and 1 Chopard watch in express delivery shipments on May 14; 36 Samsung travel chargers and 145 headsets in express delivery shipments on June 18; 234 Doraemon Man remote toys in express delivery shipments on June 27; 217 Gudetama puppets brought by inward passengers on July 15; 1,080 Hello Kitty glass bottles brought by inward passengers on July 27, 100 pirated Microsoft Office CD-ROMs in express delivery shipments on August 20, 10 LV handbags, 2 Hello Kitty suitcases, and 1 Hello Kitty sticker in express delivery shipments on August 25; 1 Chanel handbag, 4 Channel watches, and 14 Dior watches on September 4. All the aforesaid goods were seized for investigation according to law.

3. International Exchange

- (1) As part of active efforts to increase the flow of information between foreign customs offices on counterfeiting offenses, the Customs Administration from July-September 2015 provided international counterparts with information on 24 counterfeiting and piracy cases.
- (2) Enhancing Exchange and Cooperation between Rights Holders and Rights Holder Groups

a) The Customs Administration held a seminar on the feasibility to streamline procedures to handle small consignments suspected of trademark infringement on August 5, 2015. The Customs Administration’s purpose is to exchange views on related border control procedures for IPR protection with right holders and relevant agents.

b) In response to the invitation from the Interchange Association of Japan and Japanese Chamber of Commerce and Industry (JCCI), the Customs Administration gave a speech on September 10, 2015. The speech features Taiwan Customs’ border control measures for IPR protection. The purpose of the speech is to enhance the understanding of Japan’s industrial and commercial communities towards Taiwan Customs’ IPR enforcement.

c) The representatives from Kering Group (subsidiary of GUCCIO GUCCI S.P.A) and its patent and trademark agency visited the Customs Administration on September 16, 2015. They thanked Taiwan’s Customs for the efforts on border investigations and also exchanged views on bilateral cooperation to effectively combat illegal activities.

Taiwan High Prosecutors Office (THPO)

1. Enforcement Results (January-September, 2015)

District prosecutors offices across Taiwan uncovered 12 off-campus photocopying stores involving 12 suspects, and seized 82 illegally printed textbooks and 266 pirated e-books in PDF format. These infringing materials were worth NTD21,116,606. The prosecutors offices will continue investigation to effectively deter such infringement.

2. Status of Court Rulings (January-September, 2015)

Affirmed IPR infringement cases processed by Taiwan’s district prosecutors offices between January 1 and September 30, 2015 totaled 2,587. Of these, 701 suspects in 557 cases were indicted under ordinary procedures; 622 cases involving 655 defendants were filed for summary judgment; 1,192 indictments involving 1,251 defendants were deferred; and 216 cases involving 230 defendants were closed by ex officio action. In the same period, 848 defendants were sentenced to prison terms at a conviction rate of 90.79%. Compared to the same period in 2014, the status of court rulings on IPR infringement cases (summary judgment included) is as follows. There are 1,356 indictments in 2015 (Jan.-Sept.) and 1,117 in 2014 (Jan.-Sept.), accounting for a 21.40% increase. As for the number of convictions, there are 848 defendants being convicted in 2015 (Jan.-Sept.), accounting for a 23.20% decrease over the same period (1,104) of last year. The adjudication is outlined in the table below.

Status of Adjudication of Taiwan District Courts on IPR Infringement Cases

unit: person

Sentence	Year	Status of adjudication and number of convictions										
		Total	Sentence								Not Guilty	Others
			Subtotal	Under 6 Months	6-12 Months	1-2 Year(s)	2-3 Years	Over 3 Years	Detention	Fines		
Total	2015 Jan.-Sept.	1,125	848	219	15	2	0	0	572	40	86	3
	2014 Jan.-Sept.	1,421	1,104	377	34	7	0	0	633	53	91	5
	Percentage Change(%)	-20.83	-23.19	-41.91	-55.88	-71.43	0	0	-9.64	-24.53	-5.49	-40

Source : The Prosecutors Office for the Taiwan High Court



Ongoing IPR Awareness Information Meeting Series

In February, TIPO officially kicked off the “IPR Protection Service Group” information meeting series of 2015 to raise people’s IPR awareness. The topics and effects of the meetings held between July and September are listed below:

Topics	Time, Venue and Number of Participants	Issues addressed and Effects
1.IPR Laws and Regulations	From July to September, TIPO and the Service Group organized 37 meetings (7 at government agencies, 22 at corporations, and 8 at universities) across the island with 2,750 people in attendance.	The meetings addressed patent, trademark, copyright, trade secrets, and other related issues. On-site counseling was also available to step up people's IPR awareness. Survey shows that over 90% of the participants had known more about the copyright; and 97% have learned that photocopying an entire book in separate times still constitutes copyright infringement.
2.Legal Use of Software by government agencies and state-run enterprises	Three meetings were held for SMEs, government organizations, and state-owned enterprises in Taipei and Taichung on August 7, August 28, and September 18, with 377 people in attendance.	The meetings introduced and provided explanations on software piracy commonly seen in government procurement, types of misleading licensing, computer programs, legal use of computer software, and regulations governing licensing. Survey shows that 80% of the participants have learned more about the “types of software licensing.”
3.Copyright in cultural and creative industries — licensing agreements for performing and visual arts, licensing concept for illustrators (including Sohos), copyright ownership and licensing of the pop music industry	Three meetings were held on July 3, July 24, and August 21 in Taipei and Taichung, with 266 people in attendance.	Industry experts were invited to give lectures on their visual art application and image licensing experiences, and what needs to know for licensing for art and music professionals. Some lawyers introduce related copyright laws as well as licensing methods and provisions. 99.5% of the participants said that their awareness about the copyright of cultural and creative works has increased. Over 70% of the participants say they have learned more about the specifics of copyright.

● Workshop on media box technology and related laws

The OTT (over-the-top) services have been popular these years. However, the right holder groups are concerned that the media boxes’ built-in content or links may have copyright infringement problems. To enhance the communications on this matter with the prosecutors offices and investigation units, TIPO had a presentation at the 41st meeting of the working group responsible for supervising and coordinating IPR infringement investigations in May, 2015. Moreover, TIPO also assembled a meeting on media box technology and related laws in September. A professor from National Taiwan University of Science and Technology, experts from relevant industries were invited to introduce the media box technology. They also had discussions with prosecutors from the Intellectual Property Branch of Taiwan High Prosecutors Office and district prosecutors offices on legal issues and practices for media box infringement.

● Customs Administration holds 2015 3<sup>rd</sup> Seminar on Customs Information Exchange

The Customs Administration held the third seminar on customs information exchange at Taichung Customs in September of 2015. The customs officers were reminded that it is necessary to carefully check if a suspect’s conduct really constitutes an infringement based on the Trademark Act when investigating suspected infringing goods. By doing so, the rights and interests of the business people can be protected and a lot of unnecessary administrative procedures can be reduced.

● On-campus IPR Awareness Promotion Group

Joining with 21 universities and 133 IPR teachers, TIPO formed an on-campus IPR awareness promotion group. The group visited 23 high schools and elementary schools to promote IPR awareness. The activities attracted over 2,500 students. A survey shows that over 90% of the elementary school students became aware that playing the music downloaded from the internet in the class constitutes copyright infringement while over 90% of high school students became aware that photocopying an entire textbook even in several times rather than one time still constitutes copyright infringement.

● Enhancing promotion for copyright protection awareness through media

In August, a TV commercial in support for the originals was aired on six local wireless TV channels for 218 times and also on 21 TFT-LCD multimedia e-bulletin boards of the Executive Yuan across the nation. This aims to help establish the public’s concept to respect copyright.

● Internet copyright awareness promotion campaigns

- 1.To enhance the public’s attention and awareness on the internet copyright issue, TIPO held three promotion campaigns in Taipei and Taichung from July to September. Famous online writers, illustrators, and copyright experts were invited to the campaigns to talk about their creation experiences and the right concept about internet copyright. There were also Q&A sessions for participating audiences to ask questions. The campaigns attracted over 300 participants.
- 2.TIPO continues disseminating messages on supporting the originals through online channels, such as the Facebook communities. Related online quiz campaigns, including “gathering friends to support originals” and “I support originals” offered prizes to participants. As of end September, 150 messages were uploaded and 72 answers to internet copyright questions were posted. The fans of the Facebook page have already exceeded 2,200 people.