



China IPR News for U.S. Industry May 23, 2008



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PATENTS/PLANT VARIETY PROTECTION/TRADE SECRETS

1. MOA Allows Two-Month Extension for PVP Filings Due to Earthquake in Sichuan Province: The Ministry of Agriculture (MOA) has announced that applicants for Plant Variety Protection (PVP) have been granted a two-month extension to file applications or complete other requirements because of the earthquake in Sichuan Province. Applicants, however, must explain the reasons for delay to the MOA's PVP office. (Chinese Source: http://www.sipo.gov.cn/sipo2008/yw/2008/200805/t20080519_401040.html, May 20, 2008; English Source: http://english.ipr.gov.cn/ipr/en/info/Article.jsp?a_no=208979&col_no=925&dir=200805, May 23, 2008.)

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2. Copyright Official Announces Special Action Focused on Video Internet Piracy: At the April 22 China IPR Criminal Protection Forum in Shanghai, Zhao Xiuling, Section Chief of the Copyright Management Division of the National Copyright Administration (NCA), announced that this year's special action on combating Internet piracy will be initiated earlier and sustained much longer than last year. According to Mr. Zhao, video websites will become the main objective of the special action due to rampant internet piracy, which, he says, is especially difficult to address because it is hidden easily. The campaign also will focus on Olympic IPR protection. Separately, Section Chief Zhao announced that the NCA-developed internet-copyright-monitoring network platform will go into test operation this June. Through this platform, IP and law-enforcement agencies will be able to share resources to more effectively combat internet-based IPR infringement. (Source: *Xinhua News*, April 23, 2008.)

3. MPA and AIGA Develop New Public-Awareness Vehicles: The Motion Picture Association (MPA) and the American Institute of Graphic Arts (AIGA) each independently have developed new IPR awareness programs. MPA, which organized the 15th Beijing Student Film Festival in partnership with the China Film Copyright Protection Association, recently announced the winners of a China-wide short-video-production competition on the theme of "Respect Copyrights; Stay Away from Piracy." Yang Tingting, a student of Beijing University of Aeronautics and Astronautics (which has an IPR program), won with animation entitled *I Want to Buy Legitimate*. (Source: *China Daily*, April 30, 2008.)

Separately, the AIGA released its "Design Business and Ethics" pamphlet in Chinese, including an introduction to copyright law and a discussion of other issues such as use of fonts, software,

photographs and illustrations. This brochure is another indicator of increased activity by a U.S.-IPR trade association in China. For the English version, please see: <http://www.aiga.org/content.cfm/design-business-and-ethics>.

ENFORCEMENT

4. Rate of Foreign Involvement in Shanghai IPR Cases Rises Steadily: Since 2002, the Shanghai Higher People's Court claims that the proportion of IPR cases involving foreign parties has risen each year, increasing by 11.3 percent over the last year alone. According to Judge Ying Xinlong, Vice President of the Shanghai Higher People's Court, plaintiffs tended to be enterprises from several foreign countries, including the U.S., Japan, the U.K., Germany, France and Holland, representing trademarks such as Nike, Johnson & Johnson, Esprit, Levi's and BP. Goods involved were shoes, cosmetics, garments, handbags, chemical products, and automotive accessories. Trademark infringement accounted for approximately 80% of the criminal IPR cases tried in Shanghai from 2002 to 2006; in 2007, it was 69%. (Source: *Shanghai Daily*, April 22, 2008.)

GENERAL IPR NEWS

5. China Announces Top 2007 IPR Events: To mark World Intellectual Property Day on April 26, China's official IPR website of the Ministry of Commerce announced the results of voting for "China's Top Ten 2007 IPR Events" from thirty candidate events based on opinions of IP experts and government departments. The list was then opened to "public voting and expert appraisal." The results provide some insight into Chinese IPR priorities: 1.) General Secretary Hu Jintao's pointing to implementation of the National IPR Strategy in his October 17 report to the National People's Congress; 2.) The April 2007 launch of the National IP Protection Plan with 276 measures; 3.) Patent applications reaching the four-million mark, with China accepting one million applications in the last eighteen months; 4.) Three million trademark registrations by the end of 2007; 5.) The National Working Conference on Genuine Software in Beijing reporting that 1,500 large-scale enterprises had implemented genuine software installation by the end of 2007; 6.) China Customs receiving award from World Customs Organization for anti-counterfeit and anti-piracy efforts; 7.) Ministries of Commerce and Culture announcing measures to reinforce protection of intangible-cultural-heritage (ICH) time-honored brands; 8.) Supreme People's Court issuing opinions to strengthen IPR trials, calling for increased compensation for IPR infringement; 9.) World Intellectual Property Organization's Copyright Treaty and WIPO's Performances and Phonograms Treaty coming into force in China on June 9, 2007; and 10.)

China ratifying protocol amending Trade-Related Aspects of Intellectual Property Rights (TRIPs) Agreement, joining forty-one WTO members, including the U.S. (English Source: http://english.ipr.gov.cn/ipr/en/info/Article.jsp?a_no=200876&col_no=928&dir=200804.)

6. China Leading Source of Fake Goods Seized by E.U. Customs; Trend Toward More Frequent and Smaller Shipments: According to the European Commission, the number of Customs interventions involving counterfeit goods increased by 17% in 2007, while the number of articles seized decreased from 128 million to 70 million. The reduction reflected drops in seized counterfeit cigarettes and pirated CDs/DVDs, possibly reflecting piracy moving from discs to the internet, as well as a possible move by infringers to more frequent and smaller shipments. China remained the main source of seized counterfeit goods – almost 60% (note: U.S. Customs and Border Protection reported 80% of 2007 goods seizures originated from China). Cigarettes and clothing accounted for 34% and 22% respectively of the seized articles. Several categories indicated significant growth over 2006 in terms of seizures: cosmetics and personal-care items, toys, computer equipment, and medicine. Air-express and postal shipments, known for their smaller quantity, accounted for 70% of the seizures. Customs credits right holders for filing 10,260 applications for intervention, corresponding to 80% of the interdicted goods. Complete text attached. (Source: EC Report, "2007 Customs Seizures of Counterfeit Goods – Frequently Asked Questions," May 19, 2008, Brussels, Belgium:

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/08/310&format=HTML&aged=0&language=en&guiLanguage=en>
