

2015 Intellectual Property Rights Protection in China

**State Intellectual Property Office of the People's
Republic of China**

(This publication is released in both Chinese and English, and in the event of any discrepancy, the Chinese version shall prevail.)

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2015 marks an all-round end of the 12th Five-Year Plan period and is a crucial year for comprehensively deepening reform in the field of intellectual property (IP) and accelerating the construction of a nation with strong IP competence under the new situation. The Chinese government has implemented comprehensively the guiding principles of the 18th National Congress of the Communist Party of China (CPC) and the 3rd, 4th and 5th Sessions of the 18th CPC Central Committee and executed the Four-Pronged Comprehensive Strategy as well as the decisions and arrangements of the CPC Central Committee and the State Council. In line with the *Several Opinions on Accelerating the Construction of the Nation with Strong IP Competence under the New Situation* and the *Action Plan for Further Implementing the National IP Strategy (2014—2020)*, the Chinese government has further intensified IP protection and achieved remarkable progress in legislation, approval and registration, law enforcement, mechanism and capacity building, publicity, education and training and international cooperation.

I . Legislation

In 2015, IP-related departments followed the strategic deployment of administering the country according to law and made a new step forward in the intellectual property right (IPR) legal system building by constantly improving laws, regulations and policies according to the practical needs of innovation-driven development and comprehensively deepening IP reform.

The Legislative Affairs Office (LAO) of the State Council worked in conjunction with relevant departments to modify relevant laws and regulations. The revised *Law on Promoting the Transformation of Scientific and Technological Achievements* was approved at the 16th Session of the Standing Committee of the 12th National People's Congress and entered into effect since October 1, 2015. Amendments to the *Patent Law*, the *Copyright Law*, and the *Regulations on Patent Commissioning* were underway in an orderly manner in accordance with the annual legislation plan.

The State Intellectual Property Office (SIPO) promoted the 4th round of the comprehensive revision of the *Patent Law* proactively, submitted the *Draft Revision of the Patent Law (for Examination)* to the State council and embarked on preparations for the amendments to the *Implementing Rules of the Patent Law*. SIPO also actively cooperated with LAO on the legislative review on the *Draft Regulations on Service Inventions*

(for Examination) and modified departmental rules such as *Measures on Patent Administrative Enforcement*, *Measures on Management of Patent Commissioning*, and *Measures on the Deposit of Microorganisms for the Purposes of Patent Procedures*.

The State Administration for Industry and Commerce (SAIC) facilitated the amendments to the *Anti-Unfair Competition Law* proactively.

The National Copyright Administration of China (NCAC) earnestly carried forward the 3rd amendment to the *Copyright Law* and the revision of relevant laws and regulations and promulgated a series of normative documents such as the *Notice on Regulating Reprinting of Online Copyrighted Works*, the *Notice on Regulating the Copyright on Online Disks* and the *Notice on Clarifying the Nature of the Registration of Foreign-related Copyright Contracts* so as to better regulate the order of copyright.

The Ministry of Agriculture (MOA) and the State Forestry Administration (SFA) joined hands to promote the revision of the *Seed Law*. The amended *Seed Law* was adopted at the 17th Session of the Standing Committee of the 12th National People's Congress and came into force upon January 1, 2016. A chapter on the protection of new varieties is incorporated, enhancing the legal responsibilities for infringing the rights of new plant varieties. In addition, it formulated the guidelines for testing the distinctness, uniformity and stability (DUS) of 93 varieties of plants, reviewed 18 standard guidelines and promulgated 18 standards. It also took the lead in the amendments to normative documents such as the *Confirmation and Assessment Specifications for Qualified*

Registration Applicants of GIs of Agricultural Products and the Registration and Examination Standards of GIs of Agricultural Products.

SFA issued the *Administrative Regulations on Testing of New Forestry Plant Varieties*, revised the *Measures for Administrative Enforcement for the Protection of New Forest Plant Varieties*, released *China's Action Plan for the Conservation and Sustainable Use of Genetic Forestry Resources* and proactively promoted the establishment of a conservation system for geographical indications (GIs) of forest products.

The Supreme People's Court (SPC) released the *Decision on Amending the Several Provisions of the Supreme People's Court on Issues Concerning Applicable Laws to the Trial of Patent Disputes* so as to clarify such major issues as the selection of methods to calculate compensation for patent right infringement and promulgated such judicial policies as the *Interim Provisions of the Supreme People's Court on Issues Concerning the Participation of Technical Investigators of IP Courts into Litigation Activities* and the *Reply of the Supreme People's Court on Whether Patent Agents Can Continue Administrative Patent Litigations Commissioning after the Implementation of the Revised Administrative Litigation Law of the People's Republic of China*.

II . Approval and Registration

2015 saw a steady growth in the number of intellectual property rights (IPRs) for

approval and registration and remarkable improvement in examination quality and efficiency as well as the capacity of approval and registration and new breakthroughs in IPR approval and registration.

In 2015, patent applications increased steadily and mounted up to 2,799,000, with a year-on-year increase of 18.5%. More specifically, there were 1,102,000 applications for invention patents, exceeding 1 million for the first time and up by 18.7% compared with the previous year, and 1,128,000 applications for utility model patents and 569,000 applications for design patents, registering a year-on-year increase of 29.8% and 0.8% respectively.

China has constantly enhanced its patent examination capacity. 2,083,000 patent applications were examined, with a year-on-year increase of 10.3%, of which the number of patents for invention reached 558,000. While the number of patent applications was increasing, the pendency for patent examination decreased steadily. The pendency for invention patents examination was controlled within 21.9 months, and the pendency for utility model patents and design patents were reduced to 2.9 months and 3.0 months respectively.

A total number of 359,000 invention patents, 876,000 utility model patents and 483,000 design patents were granted, up by 54.1%, 23.8% and 33.5% year on year respectively. By the end of 2015, the number of invention patents has reached 1,472,000, with a year-on-year increase of 23.1%, and the number of invention patents owned by

per 10,000 Chinese people reached 6.3 (excluding Hong Kong, Macao and Taiwan, China).

A total of 30,548 international applications under the *Patent Cooperation Treaty* (PCT) were accepted, with a year-on-year increase of 16.7%. 82,965 international applications entering the national phase in China were accepted, with a year-on-year increase of 2.9%, including 81,867 applications for invention patents and 1,098 for utility model patents.

Trademark applications continued to grow. A total of 2,876,000 applications for trademark registration were accepted in 2015, with a year-on-year increase of 25.85%, and 11,500 applications for trademark registration were accepted in every workday on average. The number of trademark registration reached 2,226,000, with a year-on-year increase of 61.91%, exceeding the threshold of 2 million for the first time. By the end of 2015, the cumulative numbers of trademark applications, registered trademarks and valid registered trademarks in China were 18,402,700, 12,253,900 and 10,343,900 respectively, each exceeding the threshold of 10 million.

The registration and protection of GIs and trademarks for agricultural products continued to be improved. By the end of 2015, 2,984 collective trademarks and certification trademarks for GIs has been examined and registered in China, 83 of which were from foreign applicants. The number of Madrid international trademark applications grew steadily. In 2015, there were 2,321 Madrid international trademark applications from

domestic applicants (applicable to multiple categories), ranking the 6th place in the Madrid Union, and 20,179 were valid, exceeding the threshold of 20,000 for the first time. There were 24,849 applications from foreign applicants, with a year-on-year increase of 22.4%, still ranking the 1st place in the Madrid Union, and the accumulative application number amounted to 224,000.

Copyright registration maintained a steady growth. In 2015, a total of 1,641,200 copyrights were registered, with a year-on-year rise of 35.49%. In specific, there were 1,348,200 works copyrights and 292,400 software copyrights, up by 35.9% and 33.6% year on year respectively. 606 copyright pledges were registered, up by 22.18% year on year, involving a principal debt of RMB 2,872,850, 000 yuan.

The number of applications for new varieties of agricultural plant rights received by MOA reached a record high. In 2015, MOA received 2,063 applications for new varieties of agricultural plant rights, with a year-on-year increase of 16%, and granted 1,413 applications, with a year-on-year rise of 70.9%, which is 50% higher than the historical peak. By now, the cumulative number of applications for new varieties of agricultural plant rights accepted and granted were 15,546, and 6,258 respectively. In 2015, MOA received 224 applications for GIs of agricultural products and announced 238 products (including those announced from 2014—2015) and 204 certified products. Totally, 1,792 such certified products had been published in China. Examination and granting abilities was further improved and the average granting period was reduced from 3 years and 8

months to 3 years and 5 months.

Applications for new varieties of forest plants grew rapidly. In 2015, SFA accepted 273 applications for plant variety rights and granted 176, registering a record high, with the total number reaching 1,788 and 1,003 respectively. 65 foreign applications were filed, making a total of 307. SFA also preliminarily examined 214 applications for new varieties, organized and completed on-site expert examination of 158 applications on DUS, and carried out field testing for 22 new variety applications.

Applications for customs recordation for IPR protection grew rapidly. In 2015, the General Administration of Customs (GAC) accepted 7,459 applications for customs recordation, a year-on-year increase of 13%, of which 5,703 applications were approved, with a year-on-year increase of 15%. Another 2,917 pieces of recordation from domestic enterprises were approved. The top five provinces and municipalities in terms of newly added approved recordation were in order Zhejiang Province (468), Guangdong Province (314), Jiangsu Province (107), Fujian Province (105) and Shanghai Municipality (56). In 2015, GAC accepted 123 applications for registration cancellation and 8 cases were revoked in line with jurisdiction.

III. Law Enforcement

In 2015, departments in charge of IPR protection in China intensified IPR law

enforcement further. According to arrangements of the State Council, member departments of the Office of National Leading Group on Fight against IPR Infringement and Counterfeiting deeply implemented rectification work with respect to rural areas, rural-urban fringe zones and the Internet and so on, and launched the “Fair Wind Action” to safeguard the international fame of products made in China. Taking both online and offline measures, it strengthened supervision on production, circulation and consumption, strictly investigated and cracked down on IPR infringement and manufacturing and selling of counterfeited and substandard commodities. Administrative law enforcement departments investigated 178,000 cases and public security organs cracked nearly 21,000 criminal cases. The prosecutorial organs approved the arrest of 8,555 suspects and prosecuted nearly 15,000 cases and judicial organs concluded 15,000 cases.

1. Judicial Protection

In 2015, judicial departments at all levels performed duties of judicial IPR protection in accordance with law, and constantly improved accountability and international influence of justice in IPR field and practically supporting the implementation of the innovation-driven development strategy by pushing forward judicial reform, improving judicial transparency and strengthening judicial publicity.

People’s courts fully played the role in civil trials and practically safeguarded the legal rights and interests of IPR holders. In 2015, local people’s courts nationwide accepted 109,386 IPR civil cases of first instance and concluded 101,324 cases, with year-

on-year increases of 14.49% and 7.22% respectively, and the first instance clearance rate was 82.66%. To break it down, there were 11,607 patent cases, up by 20.3% year on year; 24,168 trademark cases, up by 13.14% year on year; 66,690 copyright cases, up by 12.1% year on year; 1,480 technology contract cases, up by 38.19% year on year; 2,181 cases of unfair competition (including 156 civil monopoly cases), up by 53.38% year on year; and 3,093 other IP-related cases, up by 22.45% year on year. In 2015, a total of 1,327 foreign-related IPR civil cases were concluded at the first instance, down by 24.67% year on year, and 387 IPR civil cases involving Hong Kong, Macao and Taiwan, China were concluded at the first instance, down by 9.15% year on year. Meanwhile, 15,114 new IPR civil cases of second instance were accepted by local people's courts and 15,025 concluded, with year-on-year increases of 9.84% and 9.61% respectively. 115 new retrial cases were accepted, up by 43.75% year on year and 114 cases concluded, up by 21.28% year on year. In addition, SPC accepted 381 IPR civil cases, and concluded 377 cases (including old ones), with year-on-year increases of 13.39% and 11.2% respectively, of which retrial cases numbered 329 and 321 respectively.

People's courts also played the due role in administrative trials and urge administrative organs to administrate according to law. In 2015, local courts accepted 9,839 new IPR administrative cases of first instance, remaining basically stable compared to the previous year, and concluded 10,926 (including old ones), with a year-on-year increase of 123.57%. First instance clearance rate was 70.5%. To break it down, there were 1,721

patent cases, up by 219.29% year on year; 7,477 trademark cases, down by 19.65% year on year; 10 copyright cases, down by 16.67% year on year; and 631 other IP-related administrative cases, up by 917.74% year on year. Among the administrative cases concluded at first instance, the administrative acts of 3,541 cases were confirmed and 1,664 were judged to withdraw. Meanwhile, local people's courts nationwide accepted 2,245 new IPR administrative cases of second instance, down by 7.8% year on year, and concluded 2,329, up by 9.96% year on year. In addition, SPC accepted another 378 IPR administrative cases, and concluded 377 cases, with year-on-year increases of 161% and 150% respectively. To break it down, new retrial cases amounted to 367 and 361 were concluded.

People's courts intensified efforts to combat IP crimes by playing the role in criminal judgments. In 2015, local people's courts nationwide concluded 10,809 IPR criminal cases of first instance and 782 cases of second instance, remaining basically stable compared to the previous year. the effective judgments brought 12,732 persons out of 12,741 suspects in a verdict of guilty. Among the settled cases, the courts brought in a verdict of guilty of IPR infringement in 3,542 cases, guilty of production and sale of counterfeited and substandard goods (involving IPR infringement) in 3,042 cases, guilty of illegal business (involving IPR infringement) in 1,250 cases, and guilty of other crimes in 85 cases for IPR infringement, and the entry of effective judgments involved 6,420, 4,127, 2,095 and 117 persons respectively. Among the cases brought in a

verdict of guilty of IPR infringement, the courts brought in a verdict of guilty of registered trademark counterfeiting in 1,497 cases, guilty of sale of goods with counterfeited registered trademarks in 1,352 cases, guilty of illegal manufacturing or sale of illegally manufactured indicators of registered trademarks in 256 cases, guilty of copyright infringement in 414 cases, guilty of sale of infringing duplicates in 3 cases, and guilty of business secret infringement in 20 cases, and the entry of effective judgments involved 3,089, 2,222, 500, 547, 9 and 35 persons respectively.

Prosecuting departments nationwide performed procuratorial supervision and cracked down on IPR infringement crimes strictly. In relation to arrest approval and prosecution, they approved the arrest of 4,772 people in 2,761 suspected IPR infringement cases and prosecuted 8,664 people in 4,736 cases. More specific, 2,306 suspects involved in 1,213 cases of registered trademark counterfeiting were approved to be arrested and 3,939 suspects involved in 2,007 cases were prosecuted; 1,597 suspects involved in 1,046 cases for sale of commodities with counterfeited registered trademarks were approved for arrest and 2,819 suspects involved in 1,695 cases were prosecuted; 358 suspects involved in 222 cases for illegal manufacturing or sale of illegally manufactured registered trademark signs were approved to be arrested and 635 suspects involved in 315 cases were prosecuted; 1 suspect involved in 1 case for patent counterfeiting was approved to be arrested and 2 suspects involved in 1 case were prosecuted; 148 suspects involved in 106 cases of copyright infringement were approved to be

arrested and 565 suspects involved in 425 cases were prosecuted; 7 suspects involved in 7 cases for sale of infringing duplicates were prosecuted; 35 suspects involved in 27 cases of trade secret infringement were approved to be arrested and 58 suspects involved in 34 cases were prosecuted; in addition, 30 suspects involved in 18 cases in which one of the multiple crimes was IPR infringement were approved to be arrested and 58 suspects involved in 34 cases were prosecuted; 297 suspects involved in 128 cases where IPR infringement was an auxiliary crime were approved to be arrested and 581 suspects involved in 218 cases were prosecuted.

With regard to investigation of IPR infringement-related duty crimes, procuratorial organs nationwide arrested 3 suspects involved in 3 cases for conniving at manufacturing and sale of counterfeited and substandard commodities and prosecuted 3 suspects involved in 3 cases; arrested 15 suspects involved in 13 cases for failing to hand over criminal cases for the purpose of personal gains and prosecuted 118 suspects involved in 64 cases. In terms of criminal litigation supervision, public security organs filed 717 cases involving 859 suspects for production and sale of counterfeited and substandard goods and 49 cases involving 61 suspects for IPR infringement after the procuratorial organs nationwide started the supervision over the infringement and counterfeiting cases that should have been, but had yet been filed by public security organs.

Public security organs nationwide kept investigating and cracking down on IPR crimes strictly. In 2015, the Ministry of Public Security (MPS) organized public secu-

rity organs nationwide to earnestly perform duties, intensify the efforts to crackdown on IPR infringement in main businesses and settle relevant cases vigorously. Statistics indicated that public security departments nationwide cracked 21,000 criminal cases for IPR infringement and manufacturing and sale of counterfeited and substandard goods involving a total value of RMB 26,390,000,000 yuan and arrested 26,000 suspects throughout the year. Public security organs of Tianjin cracked the “3 · 30” bearing counterfeiting case, which is of extreme serious social effects, tracking down more than 10,000 sets of counterfeited brand bearings of over 300 types, with a total value of more than RMB 18,000,000 yuan. Public security organs of Fujian and Shandong cooperated with IP organs to crack “6 · 11” Internet patent counterfeiting case, tracking down over 30 kinds of counterfeited patented anti-blue light glasses, involving over 23,000 orders and over 52,800 pairs of glasses, with a total value of more than RMB 4,000,000 yuan.

Considering the covert nature and trans-regional presence of IPR infringement crimes, MPS improved the working pattern focusing on cluster actions, exerted efforts to intensify law enforcement to achieve better effect and destroyed thoroughly 258 networks for producing or selling counterfeited goods. More specific, public security organs of Zhejiang, Anhui, Fujian, Guangdong and Yunnan successfully launched cluster actions for the “5 · 12” network-based tobacco equipment manufacturing and selling case, destroying a tobacco equipment manufacturing and selling network that involved

5 provinces, arresting 29 suspects, tracking down 19 finished and semi-finished tobacco equipment, 10,462,000 cartons/ pieces of counterfeited cigarettes, such as Yunyan and Yuxi, and 19 tons of raw materials. Public security organs of Anhui, Zhejiang, Jiangsu, Shandong, Guangdong, Guangxi, Liaoning and Inner Mongolia concluded the cluster actions for the “4 · 27” case involving producing and selling of counterfeited automobile accessories, arresting 44 suspects, tracking down 16,900 heavy-duty oil cylinders, gear pumps and other accessories counterfeiting Hyva brand and detaining more than 100 counterfeiting equipments, such as drilling machine, turning machine and hoisting devices, with a total value of over RMB 80,000,000 yuan.

2. Administrative Law Enforcement

In 2015, administrative law enforcement departments at all levels further improved the efficiency of administrative law enforcement, enhanced its supervision and constantly optimized the legal environment for IPR protection.

SIPO stepped up the patent administrative enforcement. IP offices nationwide conducted the “Lightning” campaign for patent enforcement and patent rights protection in e-commerce field, promoted the “Escort” campaign to enhance IPR administrative enforcement. Meanwhile, capacity of enforcement and safeguard of patents in exhibitions continued to be strengthened. In 2015, a total of 35,844 administrative patent cases were handled, with a year-on-year increase of 46.4%. More specific, the number of patent dispute cases mounted to 14,607, exceeding the threshold of 10,000 for the first

time, up by 77.7% year on year. 21,237 patent counterfeiting cases were handled, up by 30.6% year on year. 7,644 patent cases in e-commerce field, and 2,743 cases related to exhibitions were handled, up by 155.2% and 54.1% year on year respectively.

SAIC continued to strengthen the crackdown on infringement and counterfeiting. In 2015, industrial and commercial administrations and market supervision organs nationwide registered and settled 50,834 infringement and counterfeiting cases and concluded 47,349, the sums involved reached RMB 740,000,000 yuan. There were 27,379 cases of infringement on the exclusive right of trademarks and 19,802 concluded, with a total value of RMB 370,000,000 yuan. Besides, they transferred 238 suspected criminal cases to the judicial organs, involving RMB 120,000,000 yuan. There were 164 cases suspected of infringement on the exclusive right of trademarks. SAIC also launched the long-term “Red Shield Net Sword” campaign and organized a series of special enforcement actions, such as those for protecting the exclusive right of GI marks. SAIC firmly cracked down on trademark infringement and counterfeiting and the illegal use of trademarks in key fields and major industries and thereby, effectively safeguarding the fair competition on market. In addition, local industrial and commercial administrations and market supervision organs jointly guided and standardized the use and management of GI marks for 13,303 times and the use and management of exclusive GI signs for 9,933 times, filed, investigated and settled 15 cases for illegal use of exclusive GI signs and 117 cases for infringement on the exclusive right of GI marks, of which 72

cases were concluded, involving RMB 1,114,000 yuan and the sum of penalty and confiscation reached RMB 451,000 yuan .

NCAC maintained the intense effort to crack down on IPR infringement and piracy. It continued the special administration of Internet-based IPR infringement and piracy, carried out the 11th “Swordnet 2015” action in cooperation with the State Internet Information Office, the Ministry of Industry and Information Technology (MIIT) and MPS to intensify the control of third-party APPs of online music, online cloud storage and smart mobile terminals as well as online advertising alliances. In special actions, relevant local departments nationwide handled 383 cases of Internet-based IPR infringement and piracy with an administrative penalty of RMB 4,500,000 yuan, transferred 59 criminal cases involving RMB 38,450,000 yuan to judicial departments, shut down 113 websites involved in IPR infringement and piracy, and deleted more than 2,200,000 pieces of IPR-infringing and pirated music online. In 2015, copyright law enforcement and monitoring departments at all levels filed, investigated and settled 1,177 cases, transferred 92 cases with criminal responsibilities to judicial departments, and destroyed 380 piracy sites. Among them, 36 copyright infringement cases were supervised and settled independently and 4 copyright infringement cases were in cooperation with other departments.

NCAC further consolidated the installation of copyrighted software in government organs, Level 3 or higher level central enterprises and large and medium-sized finan-

cial institutions and in conjunction with relevant departments, established a normalized supervision and oversight mechanism. Governments at all levels enhanced the management of software use and purchased and updated copyrighted software in time. 92.63% of public institutions under central departments installed copyrighted software. In 2015, provinces (autonomous regions and municipalities) supervised and inspected the installation of copyrighted software of 33,500 government organs (times) and governments at all levels purchased 951,900 operation systems and office and antivirus software in total with RMB 492,000,000 yuan. Enterprises achieved important breakthroughs in installing copyrighted software. Central enterprises and large and medium-sized financial institutions comprehensively installed copyrighted software. In total, 27,001 enterprises nationwide have passed the inspection of installing copyrighted software. In 2015, central enterprises and financial institutions spent RMB 1,814,000,000 yuan on purchasing, upgrading and maintaining operation systems and office and antivirus software.

The Ministry of Culture (MOC) strengthened market supervision through unannounced visits, spot checks and supervised operations, and special attentions were given to the Internet cultural market. A total of 19 teams were set up to conduct unannounced, random and cross inspections on cultural markets in 140 counties, cities and districts and 76 prefecture-level cities in 25 provinces, in order to strengthen the supervision of Internet bars, recreation and entertainment markets and publications. It published

the blacklist of violations against laws and regulations, deployed the 22nd, 23rd and 24th batches of investigations on illegal cultural activities on the Internet, supervised the settlement of 217 cases involving Internet cultural market and investigated and settled 882 cases involving Internet cultural market.

MOA intensified the crackdown on variety right infringements, and effectively safeguarded market order and protected variety right holders' legal rights and interests through a series of special regulating and supervision actions, such as combating counterfeited goods and protecting rights on the market in Spring. It organized and implemented special inspections on the use of GIs of agricultural products across China to intensify post monitoring. It has monitored GIs of agricultural products constantly, verified safety and quality preservation of products comprehensively, and conducted random follow-up inspections on 120 samples of 30 certified products in 6 provinces and municipalities including Dalian, Fujian and Guizhou.

SFA launched the special action against infringement of new forest variety rights. It further carried out pilot administrative law enforcement regarding new plant varieties in Hebei, Shandong and Shaanxi.

GAC launched the "Fair Wind Action" with focus on IPR infringement and counterfeiting in export. By the end of 2015, customs nationwide seized 23,227 batches of IPR-infringing commodities in total, involving 69,770,000 products. 6,182 batches of IPR-infringing commodities destined for Africa, Latin America and Arab States were

seized in total, involving 38,810,000 products. And 20,339 batches of IPR-infringing commodities were seized via postal and express channels, involving 426,000 products.

IV. Mechanism and Capacity Building

In 2015, IPR protection related departments proactively promoted reform and innovation of work pattern, improved the protection and evaluation mechanisms, reformed the judicial system and working mechanism and further improved working capabilities in line with the arrangements of the State Council.

The State Council issued *Several Opinions on Accelerating the Construction of the Nation with Strong IP Competence under New Situations*, in which it explicitly required to protect IPR more strictly, improve the IPR protection model where administrative law enforcement and judicial protection are mutually supportive and connected, intensify punishment on IPR infringement and crackdown on IPR crimes, establish a sound IPR protection warning and prevention mechanism, regulate IPR abuse and improve the effects of IPR protection.

The General Office of the State Council issued the *2015 Key Tasks on Cracking down on Infringement and Counterfeiting* and the *Opinions on Strengthening the Control of Infringement and Counterfeiting on Internet*. The Office of National Leading Group on Fight against IPR Infringement and Counterfeiting joined hands with Supreme People's

Procuratorate (SPP) to proactively advance the convergence of administrative and criminal enforcement in cracking down on infringement and counterfeiting, improve the working mechanism. They guided 27 provinces, regions and municipalities to build up the administrative law enforcement and judicial information sharing platform. 23 provincial-level platforms were connected with the central platform, and the information of more than 140,000 cases was included in the platforms. It also pushed the disclosure of information on administrative punishment for infringement and counterfeiting and established the monthly reporting and random inspection system for information disclosure. In 2015, information of over 44,000 administrative punishment cases was disclosed, up by 8% year on year, and more effort was made to promote social supervision, punish law offenders, protect consumers and regulate enforcers.

SIPO continued to improve the social evaluation mechanism for IPR protection and carry out the annual survey of social satisfaction on IPR protection. It organized the revision of the *Operating Guidelines for Patent Administrative Law Enforcement (Trial)*, continued to improve patent administrative enforcement capabilities, improved trans-regional joint enforcement and cooperative enforcement mechanisms, established a sound patent infringement judgment consulting mechanism and a rapid patent dispute mediation mechanism, constantly improved enforcement operating procedures, and improved enforcement quality and efficiency. SIPO also further improved the Responsibility system of law enforcement target and performance evaluation index system,

the delivery and submission system of patent administrative enforcement cases, the online system for handling patent dispute cases and complaint collection system were tested online. Major headways were made in IPR protection, assistance and complaint collection and IPR fast prosecution centers intensified support for IPR enforcement and case handling and the “12330” hotline grew more popular. Moreover, rapid IPR protection was advanced proactively, IPR fast prosecution centers were established in 8 industrial clusters of decorative lighting, home textile, design service, writing instrument production, furniture, household appliances, leather products and ceramics and so on, which supported the local economy development. Furthermore, efforts were made to constantly construct the national IPR credibility system. SIPO constantly cultivated marketplaces with regulated IPR protection. 38 marketplaces, including both physical and electronic markets, were identified as fostering targets for the second batch of national level marketplaces with regulated IPR protection. Meanwhile, SIPO guided the market to formulate working plans and solidly establish various regulations and mechanisms. An IPR protection satisfaction survey was made in marketplaces with regulated IPR protection so as to learn about the consumers’ and the merchants’ feedbacks in this respect. The IPR dispute mediation pilot projects were implemented in Beijing, Shandong, Guangdong and Xinjiang, and SIPO guided relevant pilot regions to establish various rules and regulations, such as the *Administration Measures for IPR Dispute Mediation Pilots*. By the end of 2015, 21 IPR dispute mediation teams from 7 pilot regions

in two batches were set up, including 350 full-time and part-time mediators.

SAIC issued the *Opinions on Improving Innovative Development of Zhongguancun Science Park*, implemented the arrangements of further improving market access, optimizing market environment, vitalizing enterprises and enhancing endogenous power of economic development, and thus to promote Zhongguancun Science Park to move towards a globally competitive scientific and technological innovation center. In addition, it released the *Provisions on Prohibiting the Abuse of IPRs to Preclude or Restrict Competition* to regulate the abuse of IPR. It also promulgated the *Working Plan on Deeply Implementing the Enriching-Farmers-through-Trademarks Project and Strengthening the Protection of GIs and Trademarks of Agricultural Products* together with MOA and SIPO. SAIC continued to maintain the “green channel system” for GI registration application and optimized inspection procedures for GI.

NCAC continued to carry forward the construction of the national copyright monitoring platform, monitored IPR-infringing works delivered via third-party APPs on Internet and smart mobile terminals and other channels, and further improved technical support for copyright enforcement and monitoring. It also issued the *Notice on Regulating the Order of Reprinting of Copyrighted Works on Information Networks*, the *Notice on Ordering Online Music Service Providers to Stop Unauthorized Communication of Music Works* and the *Notice on Regulating the Copyright Order of Network Disk Services*, regulated the reproducing of copyrighted work online, and established key moni-

toring mechanisms for online music providers, online disk providers and online video copyright. In addition, NCAC constantly promoted the construction of long-effective mechanisms for installation of copyrighted software, improved the database of personnel in charge of copyrighted software affairs in central and provincial organs and units and the software use management system, to ensure the responsibilities are assigned to specific persons.

MOC formulated the *Implementation Plan for Extending Random Inspection for Regulating the Interim and Post-Event Supervision of Cultural Market* and established a working mechanism combining routine patrol and random check in accordance with cultural market's characteristics. MOA amended the format of *Application Form for GIs of Agricultural Products*, the *Testing Report on Quality of GI Products of Agricultural Products* and the *Inspection Report on Registration of GIs of Agricultural Products* so as to make the work more planned, more scientific and more operable. Furthermore, MOA demonstrated, guided and drove the brand construction and industrial development of GI brands of agricultural products through establishing the national level demonstrative prototype mechanism.

SFA continued to enhance forestry IPR information service capabilities, improved China Forestry IP Net (CFIP), updated 15 basic databases of forestry IPR and completed several industrial researches, such as the comparative analysis on patents of major forestry research institutions in the world.

GAC updated and improved the customs-related IPR protection system, organized development of a recordation and mobile inquiry system for customs-related IPR protection to make it more convenient for the front-line enforcement personnel to verify recordation information. The system has been piloted in 9 customs offices directly under GAC. In addition, it also deepened the cooperation with related IPR enforcement departments, attached importance to promoting customs offices nationwide to realize “the administrative and criminal enforcement convergence” and improving the case information sharing mechanism with public security and procuratorial organs. The cooperation with SIPO was strengthened, so as to explore a patent right protection coordination mechanism with regard to export and import affairs based on their respective enforcement advantages in new conditions.

MPS enhanced fundamental work through crackdown and construction, constantly advanced the administrative and criminal enforcement convergence, strengthened inter-department information sharing, intelligence exchange and joint action, and focused on raising cooperation efficiency and crackdown precision. It improved the working mechanisms such as rapid channels for cooperative inquiry of e-commerce data and online infringement clue research, judgment and investigation with Alibaba and other e-commerce companies and explored new patterns of police-enterprise cooperation.

SPC implemented comprehensive reform of IPR judgment systems and working mechanisms and made active efforts to carry forward judicial reform pilots in IPR

courts. The *Task Division for Further Promoting the Construction of IPR Courts* was formulated and implemented. Since the establishment of IPR courts in Beijing, Shanghai and Guangzhou, a series of reform measures have been adopted, such as the establishment of presiding judge and collegial bench responsibility systems, reformed and optimized the allocation of judicial power, established and improved technical fact investigation systems including judicial expertise, expert assistant, expert consultation and technical investigator, and proactively explored effective means for seeking out technical facts for the trial of IPR cases.

SPC set up three judicial protection research bases, including the SPC IPR Case Research base (Beijing) and concentrated research forces on strengthening judgment guidance and survey. It also further enhanced judgment transparency, promoted publication of judgment documents, and improved the scope and efficiency of judgment document disclosure. It also carried forward the publicity of judgment procedures and published IPR case information through China's judgment procedure information disclosure network. The management of judgment procedures was strengthened by handling cases online, so as to guarantee the involved parties' right to get information and the right to supervise.

SPP further professionalized the settlement of infringement and counterfeiting cases, formulated and published the *Guidelines for the Examination of Arrest Requests in Criminal Cases*, the *Guidelines for the Examination of Evidence in Criminal Litigation*

Cases and other reference books, guiding and regulating basic examination methods, evidence examination and judgment and control of social hazardous conditions.

V. Publicity

In 2015, while focusing on work priorities, IP-related departments created a favorable social atmosphere for IPR protection by further innovating publicity modes and means, expanding publicity channels, improving publicity capability and conducting routine and diverse exchanges.

The Office of National Leading Group on Fight against IPR Infringement and Counterfeiting continued to guide local governments to intensify the publicity of crackdown on infringement and counterfeiting, launched the English version of the infringement and counterfeiting crackdown website and 37 local websites, and published more than 40,000 pieces of information on the primary site in Chinese. It also demonstrated China's efforts to combat infringement and counterfeiting comprehensively by formulating and publishing the *Annual Report on China Anti-Infringement and Counterfeiting 2015* for the first time.

SIPO showcased China's IPR achievements in an all round way through various publicity channels. It offered support to convene regular policy briefing meetings, and organized interviews and reports in cooperation with central media. Special attention was

attached to the publicity of annual major IPR policies, such as the *Several Opinions on Accelerating the Construction of a Nation with Strong IP Competence under New Situations*. Besides, it selected the patents winning the 17th WIPO-SIPO Award for Chinese Outstanding Patented Invention & Industrial Design in conjunction with WIPO, organized over 70 publicity activities during the “4 · 26 National IPR Publicity Week” in cooperation with 22 departments including the Central Publicity Department. More than 500 broadcasting stations, TV stations, newspaper offices and websites made over 4,000 original reports on this event. SIPO also gradually improved the regular press system and set up an official WeChat account.

SAIC carried out several special publicity activities regarding trademark protection, such as “publishing 12 typical cases of trademark law enforcement to the general public”, during the “4 · 26 National IPR Publicity Week”. SAIC established China Trademark Brand Research Institute and released China’s ranking list of trademark brands and China trademark brand development report regularly. Moreover, it selected China Trademark Awards together with WIPO. It continued to enhance publicity on China Trademark Net and advance the “enriching-farmers-through-trademarks” subject. In total, 527 pieces of publicity information were updated and released on China Trademark Net. During the NPC and the Chinese People’s Political Consultative Conference(CPPCC) sessions, SAIC joined hands with CPPCC News to edit and publish *CPPCC News · GIs special issue* and with China Private-Owned Business Asso-

ciation (CPBA) to hold the 4th National GI Trademark Photography Competition.

NCAC conducted regular publicity for major works relating to copyright, such as the “Swordnet Action” during the “4 · 26 National IPR Publicity Week” on its official website, Weibo and WeChat. In 2015, its Weibo account published more than 260 pieces of information and was titled the Top Ten Influential Official Weibo. “National Copyright” published 85 articles totally at TouTiao.com, which were read by as many as 565,000 times and recommended by over 2,200,000 times. In conjunction with WIPO, NCAC organized the ceremony for the 4th WIPO Creativity Award (China).

MOA held the national (northwest) new corn variety publicity and demonstration conference and the new plant variety information press conference and published China’s report on protection and development of new varieties of agricultural plants. It improved social recognition of new variety protection by making special coverage on media such as *Farmers Daily*. A special national exhibition on GIs of agricultural products was held for the first time. It organized provincial governments to shoot a full-length documentary named “Original Tastes from China” (*yuanweizhongguo*), which is about GIs of agricultural products.

SFA launched the National Forestry IPR Publicity Week and popularized and promoted knowledge related to forestry IPRs and demonstrated new progress and achievements made in the implementation of the IP strategy by making specialist websites and publishing the *2014 Annual Report of Forestry IPRs in China* and *China’s Approved*

New Forestry Plant Varieties 2014. It also expanded the scope of forestry IPR publicity at multiple levels and through various channels, such as newspaper, TV and network, and published or reproduced more than 450 related articles on major websites such as the official website of the Chinese government (www.gov.cn).

Taking the opportunities of the “4 · 26 National IPR Publicity Week” and the “8 · 8 Legal Awareness Day” , GAC released *2014 China Customs Protection of IPRs* and “Typical Cases of China Customs Protection of IPRs” , and carried out centralized publicity via online interview, law illustration by cases, case exposure and micro film. In 2015, GAC published more than 100 pieces of news on its official website and another over 100 pieces of news through state-level news media.

Taking the opportunities of the “3 · 15 World Consumer Rights Day” , the “4 · 26 National IPR Publicity Week” , and the “5 · 15 Economic Crime Prevention and Crackdown Day” , MPS organized local public security organs to promote social participation by analyzing typical cases, interpreting common knowledge in law and collecting clues for cases. It also combined international cooperation with publicity. Joined hands with the US, MPS publicized relevant information regarding trans-national cases such as the “7 · 29 Transnational Production and Sale of Counterfeited Automotive Airbags” .

SPC organized the “4 · 26 National IPR Publicity Week” , held press conferences and news briefing conferences and published the *Legal Protection of China's Court for*

IPRs(2014), “China’s Top 10 IPR Cases in 2014”, “Top 10 Innovative IPR Cases and 50 Typical IPR Cases by China Courts (2014)” , *Annual Report of the Supreme People’s Court on IPRs Cases (2014)* and *Yearbook of China’s Legal Protection for IPRs (2014)*. It also invited foreign envoys in China and members of the Inter-ministerial Meeting for Implementing National IP Strategy to hear trials regarding foreign-related IPR cases and organized the “Chongqing Tour for Judicial Protection of IPRs” .

SPP organized local procuratorate organs nationwide to conduct the “4 · 26 National IPR Publicity Week” , in an effort to generalize the great significance of publicity of IPR protection and the implementation of national IPR strategies and actions. It publicized via columns set up on *Procuratorate Daily* and www.jcrb.com (Justice Net), and released *China’s Top Ten Cases of IPR Judicial Protection 2014*.

VI. Education and Training

In 2015, IPR education and training was constantly enhanced, creating a new look in personnel building.

SIPO stuck to implementing the *12th Five-year Plan of IPR Talent Building* and organized patent application and protection training class, Internet safety and IPR protection training class and other special training programs with the focus on strengthening IPR protection. 9 talent program plans were implemented, including the high-level IPR tal-

ent introduction plan, the administrative management and enforcement talent cultivation plan and so on. By the end of 2015, SIPO has approved of setting up 24 national IPR training bases in 19 provinces (autonomous regions and municipalities), among which 3 were dedicated for small and medium-sized enterprises, and education and training platforms were established for improving IPR protection. Furthermore, in conjunction with Ministry of Education (MOE), it launched the piloting and demonstration programs of IPR education at primary and middle schools, involving 30 schools of 23 provinces (autonomous regions and municipalities), so as to constantly improve the awareness of IPR protection among the adolescents. China IP Training Center provided trainings to more than 10,000 participants through 103 face-to-face training classes and nearly 270,000 participants through distance education.

SAIC organized a series of training activities regarding GI protection, Madrid international trademark registration system, trademark administrative enforcement and so on. In conjunction with WIPO, SAIC held the roving seminars on effective utilization of the Madrid international trademark registration system and the high level seminar on strengthening GI protection to promote regional economic development, which was designed to effectively improve trademark registration, application, protection and administrative enforcement capabilities.

NCAC organized 4 copyright enforcement personnel trainings for 500 copyright enforcement officials, and several special trainings for media personnel and foreign-

related copyright staff in order to enhance their capabilities of copyright protection. In collaboration with the Ministry of Commerce, the National Government Office Administration and the State-owned Assets Supervision and Administration Commission of the State Council, it held 6 large training workshops on application of copyrighted software, with more than 960 participants attended.

MOA trained over 700 persons through multi-level training activities, such as the trainings for applicants on new agricultural plant variety protection, practical application trainings for testing personnel concerning the assessment of variety uniformity and the 1st testing technique training for breeding personnel on DUS. In addition, it recommended 978 qualified inspectors who had acquired the training registration qualification of GIs of agricultural products to get registered. Another 880 personnel gained registration qualification certificate for inspector through unified training and examination. It organized the 1st national recommendation of excellent inspectors for GIs of agricultural products and gave 174 personnel the title of “national excellent inspectors for GIs of agricultural products” .

SFA held 4 training sessions on new plant variety protection in forestry for 235 trainees. Meanwhile, GAC organized more than 50 trainings for 3,000 participants, including customs law enforcement personnel, export and import enterprises and IPR holders' organizations.

MOC attached importance to the trainings for Internet cultural market supervisors,

continued to organize case-based training sessions, designated 20 leading entities to deal with Internet cultural market cases, supervised the handling of 29 such cases and trained 170 persons of Internet cultural enforcement nationwide.

MPS organized 2 IPR criminal law enforcement training sessions for front-line officers and issued the *Selected Classic Cases of Crackdown on Counterfeiting by Public Security Organs* in an effort to generalize and spread excellent skills and methods and improve enforcement efficiency by local public security organs. It also guided key regions to explore solutions to tackle the problems such as criminal case jurisdiction based on judicial practice, enhance standardization of enforcement and improve case handling quality.

SPC edited and published the *Trial Guide for IP Cases* and the *Comments and Notes on IP Guiding Cases of China* and established routine work guiding and exchange mechanisms with IP tribunals of subordinate courts. SPC organized trainings for over 200 experienced judges for IP trial nationwide in 2015 in the National Judges College.

VII. International Cooperation

In 2015, China took a new step forward in international IP cooperation and its international image of IPR protection improved constantly as IP-related departments continued to strengthen and expand multilateral (bilateral) relations to intensify China's inter-

national role through active involvement in international IP affairs.

The Office of National Leading Group on Fight against IPR Infringement and Counterfeiting led a delegation to visit WIPO and Swiss Federal Department of Economic Affairs so as to publicize China's policies and achievements in cracking down on infringement and counterfeiting and reached a consensus on strengthening information exchange and deepening cooperation. It conducted exchanges with trans-national enterprises and held forums together with the Quality Brands Protection Committee of China Association of Enterprises with Foreign Investment (CAEFI).

SIPO comprehensively facilitated international cooperation in IP field, continued to deepen the friendly cooperation with WIPO and IP institutions worldwide, and continuously fostered new partnerships. Besides, it promoted the establishment of an operating coordination mechanism with WIPO China Office. SIPO boosted multilateral cooperation, signing a total of 42 multilateral and bilateral cooperation agreements and joint statements in the year. It also took the lead in organizing and coordinating relevant departments to participate in the conferences under the frameworks of WIPO and UPOV (International Union for the Protection of New Varieties of Plants) and continued the high-level IPR exchanges with major national and regional organizations and major IP examination institutions. SIPO and USPTO signed the Memorandum of Understanding on IP Cooperation and Work Plan for 2015—2016. The signing of the *Memorandum of Understanding for Cooperation among China, Mongolia and Russian* marked the

formal establishment of the trilateral cooperation mechanism. Moreover, SIPO held the 8th Meeting of the IP5 Heads of Offices, the 6th China-ASEAN Heads of IP Offices Meeting, the 15th Trilateral Policy Dialogue Meeting among SIPO, JPO and KIPO, the 3rd China-Mongolia-Russia IP Seminar, and the China-Mongolia-Russia Heads of IP Offices Meeting. SIPO also hosted a series of activities celebrating the 30th anniversary of cooperation with the European Patent Office (EPO), participated in the 4th and the 5th Meeting of BRICS Heads Meetings, the 1st ID5 Cooperation Forum and the 21st Heads Meeting between SIPO and KIPO and the 22nd Heads Meeting between SIPO and JPO and further strengthened the friendly partnership with IP institutions of developing countries and countries along the “Belt and Road” through several training sessions.

SAIC continued to dispatch delegates to attend the annual multilateral and bilateral international conferences relating to trademark, including the Seminar on the Effective Use of the Madrid System for the International Registration of Trademarks, the meeting of the Expert Committee of the Nice Union, the China-US IP Working Group Meeting, the 16th China-European IP Working Group Meeting and the 11th Round of China-EU negotiations on GIs cooperation agreement. It continued exchanges and cooperation with the competent government institutions, embassies to China and IP institutions of countries and regions such as the US, EU, South Korea, France and the UK in an effort to learn about relevant progress, publicize China’s achievements in trademark brands and establish the positive image in IPR protection of China.

NCAC actively participated in multilateral copyright cooperation with WTO, WIPO and APEC and participated in the consultations on such international treaties as *Treaty on the Protection of Broadcasts and Broadcasting Organizations*, *International Instrument for the Limitations and Exceptions of Libraries, Archives and Educational Institutions* and *Folklore Protection Treaty*. It also signed the memorandum of understanding for the bilateral cooperation between NCAC and WIPO and held the High-Level Round Table on “the Role of Film and Copyright in Culture and Economy” and the Dehua Ceramic Industry Copyright Protection Excellent Case Pilots Survey Project Conclusion and Press Conference. It also participated in the deliberation of WTO’s trade policies towards China and the deliberation of China’s foreign trade policies and attended APEC IP Expert Group Meeting. In addition, NCAC promoted bilateral cooperation on copyright, implemented China-US and China-UK copyright cooperation, propelled mutual high-level visits between China and the UK, carried out joint researches on specific copyright subject. Moreover, NCAC continued to take part in multilateral and bilateral IP groups, such as China-EU IP Group, China-Russia IP Group and China-Brazil IP Group, participated in free-trade zone negotiations, including China-Japan-Korea Framework Agreement on Regional Economic Cooperation (ASEAN 10+6), China-US Bilateral Investment Treaty and China-EU Bilateral Investment Treaty and completed China-South Korea and China-Australia free trade zone negotiations. The 2015 China-South Korea Copyright Seminar, China-South Korea Copyright Working Group Forum

and China-Japan Copyright Working Group Forum were held.

MOA sent delegates to attend a series of meetings convened by the UPOV Council and the Technical Committee under the *International Convention for the Protection of New Varieties of Plants* and conducted survey and investigation regarding the protection of new varieties. It also comprehensively took part in multilateral and bilateral consultations, discussions and exchanges on GIs and related IP affairs including China-Europe, China-US, China-Japan, China-South Korea, China-Switzerland and WTO Joint Commission on Economy and Trade Regional Comprehensive Economic Partnership, etc. and established exchange and cooperation mechanisms with a number of regions and countries. In addition, MOA participated in the 11th round of China-EU negotiations on GIs cooperation agreement and updated and improved the list of the first group of mutually recognized products.

SFA sent delegates to attend a series of meetings under the *International Convention for the Protection of New Varieties of Plants* and presented suggestions on the importance of the electronic application system construction. It participated in the negotiations on new plant varieties protection clauses of the China-Japan-South Korea Free Trade Agreement and actively attended the seminars on the international cooperation and exchange of IPRs, China-EU IP Working Group Meeting, and the 8th East Asia Forum on New Plant Variety Protection, showing China's positive attitude towards new plant variety protection.

GAC further strengthened customs law enforcement cooperation with the EU, Russia and the US, implemented the *Action Plan on IPRs Cooperation between China and EU Customs (2014—2017)* to exchange information of substantial risks, signed the *Appendix for IPR Enforcement Cooperation in the China-US Memorandum of Understanding on the Cooperation in Criminal Customs Enforcement* to intensify the crackdown on trans-national infringing trade, and held the 5th Working Group's meeting with Federal Customs Service of Russia to formulate the work plan 2015—2016 for the key work. And GAC was honored the “International IP Crime Investigation Cooperation Awards” in 2015 by the International Criminal Police Organization (ICPO).

MPS had case cooperation and enforcement exchanges with ICPO and 25 countries including the US, the UK and the UAE. It took part in and took the lead of ICPO's “Genuine Action” against infringement and counterfeiting crimes for the 3rd consecutive year, cracking 449 infringements and counterfeiting cases. In addition, it actively participated in the 26th China-US Joint Commission on Commerce and Trade, the 7th Round of China-US Strategic and Economic Dialogue and other high-level dialogue mechanisms and China-US, China-Brazil, China-Japan, China-EU and other bilateral and multilateral IPR working group consultations. Moreover, it deepened and innovated IPR criminal enforcement cooperation under the mechanism of US-China Joint Liaison Group on Law Enforcement Cooperation (JLG). MPS Economic Crime Investigation Department was granted the “Award of Excellent Contribution” for fighting infringe-

ment and counterfeiting by ICPO.

Taking the Chinese Courts International Exchanges Base (Shanghai) for Judicial Protection of IPRs as a platform, SPC established a sound long-standing mechanism for international exchange and cooperation on IPR and supported the convening of the International Forum on IP and Trade. It sent delegates to the EU-China IPR dialogue, working group meetings and IP negotiations for free trade agreements, as well as meetings of China-Switzerland, China-US, China-Australia and China-Russia IP Working Group Meetings, introducing China's achievements in judicial protection of IPR to the world.

SPP sent delegates to exchange opinions on criminal enforcement of IPR in EU, held talks with the visiting senior officials from the US Patent and Trademark Office and the UK Copyright Law Enforcement Office, and attended the Ambassadors Roundtable on IPRs Protection held by the Embassy of the United States in China and the China-Russia, China-Japan, China-US IPR working group meetings.