

## **China's Action Plan of IPR Protection 2006**

(<http://ipr2.mofcom.gov.cn/aarticle/speechactivity/200603/20060301681736.html>)

By the State Office of Intellectual Property  
Protection of the P.R.China

website: <http://ipr.mofcom.gov.cn/>

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## **Information on China's Action Plan on IPR Protection 2006**

To better protect the IPR, resolutely punish and combat various infringement and other illegal activities, the National IPR Protection Working Group Office, in conjunction with other relevant departments, formulated "China's Action Plan on IPR Protection 2006" (hereinafter referred to as the "Action Plan").

Focusing on major issues in relation with China's IPR protection efforts, the Action Plan clearly defines the China's tasks in IPR protection in 2006. It is a comprehensive, scientific and highly workable action plan with priorities, and therefore plays an important role in guiding China's IPR protection endeavor.

The Action Plan covers 4 major areas: trade mark, copyright, patent and import and export, which involve the IPR protection plans and arrangements of 11 departments, including the Ministry of Public Security, Ministry of Information Industry, Ministry of Commerce, Ministry of Culture, Customs General Administration, State Administration of Industry and Commerce, Administration of Quality Inspection, Supervision and Quarantine, Copyright Bureau, State Food and Drug Administration, State Intellectual Property Office, and Legislative Affairs Office of the State Council. The Action Plan covers 9 areas: legislation, law enforcement, mechanism building, propaganda, training and education, international communication and cooperation, promoting business self discipline, services to right holders, and subject research. In line with the Action Plan, in 2006 China will draft, formulate and revise 17 laws, regulations, rules and measures relating to trademark, copyright, patent and customs protection, and draft, improve and revise 6 judicial interpretations. The IPR law enforcement efforts will include 7 dedicated campaigns

such as the "Mountain Eagle", "Sunshine" and "Blue Sky", 8 regular enforcement initiatives and 20 specific measures. The government is going to establish a long standing mechanism constituting 12 parts, including a service center for reporting and complaining IPR violations and publicizing law enforcement statistics, and 19 specific measures. 7 approaches and 39 measures will be adopted to raise the general public's awareness of IPR protection. 21 IPR training programs will be organized under the Project of Training Thousands of IPR Personnel. The focus of IPR related international exchanges and cooperation will be on legislation, trade mark, copyright, patent and customs protection, which will be facilitated through 19 exchange and cooperation activities, out of which 7 will be between China and the US. With a view to improving enterprises' consciousness and awareness of IPR protection, 3 initiatives will be launched, including the convening of a conference on enterprises' IPR protection and proprietary innovation. 12 specific measures covering 9 areas will be put in place to better serve the right holders. Besides, countermeasure oriented research will be conducted in 5 fields to strengthen IPR protection.

# **China's Action Plan on IPR Protection 2006**

## **I、Legislative Plans**

**(I). To draft, formulate and revising a part of laws and regulations in relation to trademark protection**

1. To accelerate the study on revising the Trademark Law and complete the drafting of the revision.

2. To accelerate the formulation of the Regulations on Trademark Agents and prepare well for the implementation of the Regulations.

3. To strengthen the study on the hotspot and difficult issues in trademark law enforcement, accelerate the formulation of the Opinions on Several Issues concerning Trademark Administrative Enforcement, and solve common problems in trademark law enforcement.

4. To study the conflict between trademarks and names of enterprises and accelerate the formulation of the Regulations on Handling the Conflict between Trademarks and Names of Enterprises.

**(II) To draft, formulate and revise a part of laws and regulations in relation to patent protection**

1. To accelerate the formulation of the Measures on Remuneration of Radio and Television Statutory Licensing.

2. To accelerate the formulation of the Regulations on the Copyright Protection of Folk Literature and Artistic Works.

3. To ensure the Measures on Voluntary Registration of Works will be formulated well.

4. To accelerate the formulation of the Regulations on the Protection of the Right of Communication through Information Network in order to protect the right of communication through information network and encourage the spread of good works, performance and sound/visual recordings through information network to the general

public.

**(III) To draft, formulate and revise a part of laws and regulations in relation to patent protection**

1. To revise the Regulations on Patent Agency in order to standardize the conduct of patent agents, safeguard the normal order of the patent agency industry, and protect the legitimate rights and interests of interested parties.

2. To revise and issue the Guide on Patent Review, and edit, publish, and publicize the Guide on Patent Review and translate it into English.

3. To shape up the proposal on the third revision of the Patent Law by widely soliciting the opinions and suggestions from relevant departments of the State Council, the business community, public institutions, universities, academic research institutes and patent agents on the basis of completing the research on the third revision.

(IV) To formulate and implement the Outline of IPR Protection Action. To observe the overall requirement of tackling problems both on the surface and at the root, to identify key industries and areas, to set periodic goals pertaining to weak aspects, to define missions of strengthening law enforcement, fighting illegalities and crimes, and long-term mechanism for promoting legal construction, building enforcement teams, and intensifying publicity and education, and to improve the IPR protection system where administrative protection, judicial protection, safeguarding of rights by right holders, self-discipline of industries, intermediary services organizations, and public supervision function collectively.

**(V) To improve various rules and systems related to customs' IPR protection and formulate regulations like the Measures on Master Guarantee.**

**(VI) To formulate and revise a part of laws and regulations in relation to pharmaceutical IPR protection.**

1. To continue to cooperate with relevant departments to revise the Regulations on Varieties of Chinese Traditional Medicines.

2. To continue the revision of the Implementing Rules of the Regulations on Administrative Protection of Pharmaceuticals.

**(VII) To formulate and implement the Regulations on IPR Protection at Fairs and Exhibitions.** In order to reinforce IPR protection during fairs and exhibitions, maintain the order of the exhibition and convention industry, and promote the healthy development of the industry, the Ministry of Commerce, the State Administration of Industry and Commerce, the National Copyright Administration, the State Intellectual Property Office will jointly formulate the Regulations on IPR Protection at Fairs and Exhibitions, requesting departments administering fairs and exhibitions to reinforce the coordination, supervision and inspection for IPR protection at fairs and exhibitions in order to maintain the normal order of the fairs and exhibitions.

**(VIII) To strengthen research and study, improve judicial interpretation, and solve the problems concerning law application in trials.**

1. to issue the following four judicial interpretations at an early date on the basis of furthering research and soliciting opinions:

(1) Interpretation of the Supreme People's Court on Several Issues Concerning the Laws Applicable for Civil Dispute Cases of Unfair Competition.

(2) Interpretation of the Supreme People's Court on Several Issues Concerning the Laws Applicable for Cases of Infringing the Right of New Plant Species.

(3) Interpretation of the Supreme People's Court on Several Issues Concerning the Laws Applicable for Civil Dispute Cases of Conflicts of Intellectual Property Rights.

(4) Interpretation of the Supreme People's Court on Several Issues Concerning the Laws Applicable for Civil Dispute Cases of Music Video Copyright.

2. To ensure a rapid and effective drafting and revision of the Interpretation of the Supreme People's Court on Several Issues Concerning the Laws Applicable for

Determination of Patent Infringement in order to solve outstanding problems of law application in trials.

3. To improve the Interpretation on Several Issues of Specific Application of Laws in Handling Criminal Cases of IPR Infringement jointly issued by the Supreme People's Court and the Supreme People's Procuratorate so as to provide the legal ground for combating crimes of infringing intellectual property rights. To review the enforcement of Interpretation on Several Issues of Specific Application of Laws in Handling Criminal Cases of IPR Infringement over the past year and make prompt clarification or further interpretation on problems in trials and practice, particularly problems like the calculation of the value of illegal business operation, crimes committed by units and repeated counterfeiting.

## **II. Law Enforcement Plans**

### **(I) Special Crackdown Efforts**

#### **1. Special Crackdown Operations for Trademark Protection**

(1) Public security authorities across the country will carry on with Operation Mountain Eagle to combat IPR-infringing crimes and severely deal with infringers and pirates.

(2) Industry and commerce authorities will probe into issues and less-than-effective enforcement points identified during the special operations for trademark protection, take more precise actions, and deal severely with trademark-infringing cases that are particularly serious and vicious in nature with strong social repercussions.

#### **2. Special Operations for Audiovisual Products**

To follow through the Region-specific Action Plan for Severely Combating Illegal and Criminal Activities Involving Infringement and Piracy to deliver a deadly blow on infringers and pirates.

(1) Public security authorities will remain closely engaged in unearthing illegal



CD production lines and cracking down on infringement and piracy by distributors, duplicators and publishers of audiovisual products.

(2) Culture authorities will closely monitor provincial and large-to-medium cities and join other relevant authorities in staging three large-scale and focused campaigns, besides exercising greater supervision on critical processes, regions, and pushing on the handling of key cases.

A. Operation Sunshine No.1 in the first quarter, aimed to create a more friendly market

B. Operation Sunshine No.2 during the summer vacation with a focus on clearing out pirated and infringing audiovisual products in legal wholesaling, retailing and rental stores, and on safeguarding the legitimate rights and interest of minors

C. Operation Sunshine No.3 between the National Day and the New Year, protecting primarily the distribution and screening of major domestically-produced films.

### 3. Operation Blue Sky at Trade Shows

To implement the Measures for IPR Protection at Trade Shows and with a view to effectively containing IPR-infringing activities during trade shows, standardizing market order at the shows, increasing the awareness for IPR protection at trade shows, creating a fair environment for competition, improving management of the exposition business and fostering well-known international trade shows, the Ministry of Commerce (MOFCOM), the General Administration of Customs (GAC), the State Administration for Industry and Commerce (SAIC), the Copyright Office, State Intellectual Property Office (SIPO), the China Council for the Promotion of International Trade (CCPIT) and the Executive Office of the National Working Group on IPR Protection will stage a one-year campaign entitled Operation Blue Sky to protect IPR at trade shows. The campaign with a special focus on raising the awareness for trademark, copyright and patent protection will chase after cases

brought to high attention by IPR holders for breakthroughs and full progress.

Meanwhile, public education efforts will continue. To produce and publish 100,000 pamphlets and CDs on IPR protection at trade shows, promote the Measures for IPR Protection at Trade Shows and unveil programs for special campaigns through the Internet, promote the campaigns through press and media, post and distribute publications on related laws and regulations (in both Chinese and English) at trade shows, post contact details of local IPR authorities, and organize the heads of 200 exhibition companies and of exhibition facilities to sign on a Statement of Commitments to "operating legally and honestly, and protecting IPR".

In addition, three group trainings will be organized with a special purpose of updating people on how to protect IPR at trade shows and how to effectively keep the products of suspected infringing companies off the shows.

4. To take focused enforcement actions for patent protection around March 15 and April 26. Around those two days, inter-agency and cross-region patent examinations and collective crackdown actions will be organized in key regions across the country.

## **(II) Enforcement on a Day-to-day Basis**

1. Culture authorities will severely deal with private servers and external sites engaged in illegal music and game business over the Internet. Targets of larger scales and wider influence will first be selected. Illegal and unauthorized Internet culture undertakings will be seriously dealt with as well as illegal activities disruptive to the market order.

2. Industry and commerce authorities will closely monitor such control points as OEM, trademark labeling and commodity trading markets, to intensify regular trademark supervision and standardize trademark use.

3. Quality and technology supervision authorities at various localities will be particularly responsive to the following illegal activities.

(1) The production of fake labels, marks and packaging,

(2) The forgery of and false claims to factory names and addresses, especially those of well-known domestic and foreign brands; the forgery of and false claims to quality markings of other parties and standard-incompliant labeling and marks,

(3) Violation of other parties' IPR by way of OEM (joint crackdown efforts with industry and commerce, customs, and commerce authorities)

4. Copyright authorities will look for breakthroughs in key cases and intensify their administrative enforcement efforts.

(1) To conduct examinations and checks after special campaigns on, for example, combating cyber infringement and piracy, to prevent the resurgence of already dismantled illegal organizations.

(2) To crack down especially on illegal operations which profit by providing film, music and software downloads through the Internet and look for breakthroughs from here, with a view to settling a number of key cases, closing down a number of websites and punishing a number of offenders before the end of this year.

(3) To carry out efforts to "straighten out and crack down on production lines of pirated optical discs", actively coordinate with CD-duplicating parties to streamline optical disc production companies. In this process, priorities need to be identified, enforcement needs to be rigorous, and penalty needs to be made as harsh, heavy and quick as possible.

(4) Actively coordinate with authorities such as the Committee on Education, Science, Culture and Health of the National People's Congress to review progress in the implementation of the Copyright Law across the country.

5. Food and drug authorities will further consolidate enforcement and administration of the drug market.

(1) To continue to implement the Early Intervention Plan for Innovative Drugs of the State Food and Drug Administration (SDA) and encourage R&D of new drugs in

China through better regulation.

(2) To further streamline the advertising of drugs, medical equipment and devices and nutritional products.

(3) To further strengthen supervision on traditional medicinal herbs and TCM potions and pills in circulation.

(4) To further strengthen regulation of vaccines in circulation.

(5) To further upgrade and improve the sampling check on drugs and medical equipment and devices.

6. To strengthen patent enforcement by the State Intellectual Property Office (SIPO)

To participate in inspections concerning the enforcement of the Patent Law led by the Standing Committee of the National People's Congress. To step up IPR protection and encouraged independent innovation through the patent regime, thereby serving the needs of economic restructuring and the transformation in the approach for economic growth.

7. In order to intensify efforts combating such crimes as that of undermining the order of the socialist market economy and that of disrupting the order of social administration, and with a special emphasis on crimes infringing intellectual property, thus reinforcing enforcement conduct and procedures, the Supreme People's Procuratorate (SPP) will, in the first half of this year, join the Office of the National Leading Group on Market Rectification and Standardization, the Ministry of Public Security (MPS) and the Ministry of Supervision in releasing the Interim Regulation on the Timely Transfer of Suspected Criminal Cases in Administrative Enforcement.

8. The Supreme People's Court (SPC) has aptly applied the laws and judicial interpretations, adjudicated IPR cases in a just manner, thus ensuring scientific and technological innovations.

(1) The SPC will aptly apply the Criminal Code, the Interpretation by the SPC

and SPP on Several Issues concerning Specific Laws Applied in the Handling of IPR Criminal Cases and the Reply by the SPC and SPP on Issues concerning AV products involved in the Handling of Copyright Infringing Criminal Cases. By giving full play to the penalizing and deterrent role criminal prosecutions exert, the SPC will deliver earnest and prompt guidance to the handling of all cases, thus dealing an effective blow to and pre-empting IPR-infringing crimes as well as protecting intellectual properties.

(2) Courts at various levels will rigorously implement the Trademark Law, the Copyright Law, the Patent Law and the Law against Unfair Competition, adjudicating each and every civil case in a just manner, thus safeguarding the legitimate rights and interests of the IP right-holders.

(3) While performing their due responsibilities in accordance with the law, people's courts at various levels, public security agencies, prosecuting bodies and other entities of administrative enforcement will continue to cooperate closely, doing their utmost to ensure a law-based trial and timely verdict once the relevant procedures are initiated.

(4) In light of the ambiguity and confusion that might arise in the definition of civil infringement and criminal offences in IPR cases, the people's courts will pay particular attention to the distinction between crimes and non-crimes, crime of one kind and that of another, as well as communicating and coordinating with the relevant agencies of administrative enforcement, thus weaving an impermeable legal network. They are also in a position to present judicial recommendations in cases wherein the relevant agencies have replaced criminal sanctions with administrative penalties, therefore leading to case-handling.

9. The SPP will investigate into and prosecute those crimes involving the abuse of power by government officials behind the IPR infringing crimes in a stringent manner, resolutely rooting out such "umbrellas of protection".

### **III. Plans on institutional building**

(I) To set up such working mechanisms as those concerning complaint registering, public notification and statistical releases, structuring a networked platform capable of information servicing, case supervision, statistical collection, status evaluation and early warning.

(II) To set up complaint and service centers in cities where people's governments for the provinces, autonomous regions and municipalities directly under central administration locate as well as in other important cities, for better supervision of the proceedings of the relevant cases.

(III) Building on the release of the Opinion concerning the Timely Transfer of Suspected Criminal Cases in Administrative Enforcement (hereinafter referred to as The Opinion), to give a further push to the improvement of the working mechanism pigeon-tailing administrative enforcement and criminal adjudication.

1. To improve the joint enforcement meeting mechanism involving SIPO, SAIC, State Copyright Bureau, SPC and the SPP, bringing the cooperation programs into greater depth while exploring more channels of cooperation, organizing cross-regional IPR enforcement inspections and studies in order to promote cross-sectional exchanges amongst various regions.

2. To improve the coordinating mechanism between public security agencies, prosecuting bodies and the national administrative entities of industry and commerce, vigorously following through the Interim Regulation concerning Intensified Interlinking and Coordination in the Combat against Copyright Infringing Criminal Offences.

3. To accelerate the formulation of the coordinating mechanism between the MPS and the General Administration of Customs (GAC), stepping up the coordination and cooperation between the two agencies.

4. To establish the working mechanism on the transfer of information underling infringing and pirating criminal cases from the administrative enforcement entities to the public security agencies. MPS plans to join the Ministry of Culture (MOC), the State News and Publication Administration (SNPA), the State Copyright Bureau and SAIC in releasing the relevant documents, thereby clearly defining such contents as transfer procedures while introducing discipline and order into the work on the transfer of infringement and piracy cases.

5. To vigorously disseminate the practice of “an information-sharing platform by administrative enforcement and criminal adjudication” developed and applied by the Municipal Office for Market Rectification and Standardization and the People’s Procuratorate of Shanghai, thus furnishing modernized means and a long-term platform for the working mechanism pigeon-tailing administrative enforcement and criminal adjudication while transpiring this mechanism into the area of actual case proceedings. An on-site meeting in Shanghai is planned together with the National Office on Market Rectification and Standardization in late May, with the aim of looking into and disseminating the experiences by Pudong District in instituting this information-sharing platform linking administrative enforcement with judicial adjudication.

**(IV) To promote cross-regional coordination in enforcement.** To formulate plans for cross-regional joint enforcement efforts. To give a further push to cross-regional joint enforcement efforts on patent administration. To provide for specific regulations that are operational with regard to the scope and procedures of cases whereto the cross-regional joint enforcement mechanism is applicable, in response to the legal issues involved in joint enforcement endeavors.

**(V) To develop a reporting system of the basic data on IPR protection and notify the outside world the data concerning IPR protection by China.**

**(VI) To improve the mechanism of rewarding reports.** MOS plans to consult

with the MOC, SNPA and the State Copyright Bureau to improve the system of rewarding reports, thus mobilizing the public to provide the relevant leads on criminal offences of infringement and piracy. Focus will be placed on investigations into information underlining infringement and piracy of well-known domestic publishing houses and publications as well as foreign right-holders, thus making every effort to uncovering and prosecuting a batch of major and important cases.

**(VII) To study and formulate an intellectual property strategy for the IT industry,** and establish an intellectual property early-warning system for the industry. In order to ensure the uninterrupted execution of endeavors in such areas as industry-specific procurement, technological R&D and enterprise production while fending off potential IPR disputes, the Ministry of Information Industry (MII) will step up its efforts to establish an industry-wise intellectual property early-warning system.

**(VIII) To formulate and promote the Plan on Trade Show Participants' Self-Discipline in IPR Protection.** The Ministry of Commerce, in a joint effort with relevant government authorities, has formulated and is promoting the Plan on Trade Show Participants' Self-Discipline in IPR Protection. It has put in place a rating system to monitor IPR protection efforts of show participants.

**(IX) To promote the experience of Jiangsu Province in regulating the audio-visual products market.** In recent years, Jiangsu Province has been actively cultivating a demonstration market of legalized audio-visual products along the route between Shanghai and Ningbo, and has accumulated rich experience in rectifying and developing audio-visual products markets. The Ministry of Culture will convene a symposium to sum up and promote the experience of Jiangsu, and to pursue a lasting and effective mechanism for IPR protection in audio-visual markets.

**(X) To enhance the transparency of judicial IPR protection**

1. Well-equipped higher courts shall be urged to phase in the system of



publishing effective IPR-related court verdicts on the Internet and the related online resources will be integrated. The China Court website will open a special column for IPR-related court verdicts supported by full-time staff, as a public window for promoting a fair and just IPR enforcement image.

2. A nationwide press release mechanism for news on judicial IPR enforcement will be established. With cooperation from relevant media organizations, typical cases will be selected for publishing on various publications in a bid to give enhanced media coverage to cases of interest to the public and the achievements made. If possible, various localities will also be encouraged to conduct advocacy activities in English targeting foreign parties.

3. The Supreme People's Court has made the decision to found China Trial, a publication for court verdicts and trial information on IPR cases.

**(XI) The Supreme People's Court has decided to devise an intricate system of "IPR Tribunal" to process civil cases of IPR infringement, aiming at strengthening the trying of cases and increasing the civil liability of IPR infringers.**

**(XII) To intensify supervision and case-filing efforts so as to prevent and correct the practice of "Penalty for Criminal Liability" in cracking down on criminal IPR infringement cases.** Procuratorates of various levels will take the initiative to enhance communication and coordination with judicial enforcement bodies and public security authorities. To be more specific, procuratorates will approach judicial enforcement bodies such as industry and commerce administrations, drug administrations, culture authorities, press and publishing administrations and tobacco monopoly administrations for case information and reading of case files, which will enable them to timely detect cases that should have but have not been transferred by criminal enforcement bodies or cases that public security authorities refuse to open, and to offer counsel.

## **IV. Advocacy Plans**

### **(I) Large-scale advocacy initiatives**

1. A China IPR Protection Achievements Show will be staged on 16-23 April at the China Military Museum in Beijing.

2. An IPR Protection Week (20-26 April) will be launched in association with relevant authorities.

3. Foreign journalists will be invited to report on China's IPR protection efforts.

4. The Ministry of Public Security will introduce two large-scale advocacy initiatives in April and August respectively by holding press conferences and destroying pirated publications and infringing commodities.

5. The 8th Audio-Visual Products Market Legal Advocacy Campaign will be carried out nationwide in late April.

6. Central-level media groups will be led to different localities and enterprises to report on enterprises that have developed through proprietary intellectual property rights and typical IPR protection cases.

7. Researches and interviews will be conducted on IPR related hot topics and key issues to raise public awareness and look for effective solutions. Priority areas will include non-service invention-creation, patent-to-technology transformation and the IPR protection awareness of the younger generation.

8. Besides the CCTV Innovation Award, more activities are being attempted to encourage innovation and magnify the influence of the IPR protection regime.

### **(II) Press conferences**

1. The "Ten Typical IPR Protection Cases of 2005",

2. China's latest progress in IPR protection,

3. A press conference by the State Council Information Office on April 20 to release the White Paper on China's IPR Protection

### **(III) IPR-specific TV Programming**

1. DVD programs featuring IPR protection will be produced, and illustrated books on IPR protection and pamphlets on IPR protection know-how will be published. All these materials will be issued directly in a focused way to ensure the continuity of the advocating effects.

2. Comprehensive reviews will be conducted on initiatives for educating middle-school students on IPR protection. "Copyright and Me", a TV program, will be in production with the CCTV Children's Program Unit.

3. Projects winning the "China Gold Patent Award" will be promoted to create an innovation-friendly environment.

4. Around April 1, central and local TV stations will be showing songs and TV programs on IPR protection to give more publicity to the function of the IPR system and to raise the social status of IPR.

5. TV series on typical IPR cases will be produced and played on TV stations nationwide.

6. The nomination and voting for the 3rd Female Inventor Award will continue. The award-giving ceremony will be held during the IPR Week. Advocacy initiatives will be boosted by promoting typical cases and mobilizing society-wide innovation activities

### **(IV). To publish books and print brochures**

1. To print brochures on IPR protection at exhibitions and fairs and cooperate with related media (International Business Daily) and promote IPR Protection Measures at Exhibitions and Fairs.

2. To establish a special column on IPR protection in the magazine of China Customs and compile publications including Guidelines for Customs IPR Protection.

3. To publish IPR educating books for large and medium sized state-owned enterprises.

4. To publish a series of books on IPR for young people in the form of cartoon.

5. To publish a grand picture book introducing activities under “Protecting IPR: We Are in Action 2005” and typical examples of independent innovation in China.

**(V) To strengthen promotion through websites**

1. To launch the website of “China IPR Protection” in both Chinese and English versions.

2. To ensure a good effect of the English and Chinese columns at the website of the General Administration of Customs.

3. To fully utilize the website of China Trademark to engage in on-line promotion, enrich the website continuously and build China Trademark into an important communication platform between the Trademark Office and the general public from home and abroad.

4. To initiate special columns and topics on IPR at governmental websites and relating media.

**(VI) To hold forums, symposiums and seminars**

1. To hold and publicize the China International Cooperation Forum on Exhibition.

2. To hold the High-level Forum on IPR Protection on April 26.

3. To hold the China Academic Seminar on IPR protection 2006 in the Medical and Pharmaceutical Area in late March in Beijing.

4. To hold the China IPR and Innovation Development Forum 2006 during the IPR Week.

5. To hold the High-level Forum on IPR in Information Industry to conduct study and communication on the prominent IPR problems in IT development, with a view to improving the awareness and capacity of enterprises in IPR administration.

6. To hold the China Forum on IPR Criminal Protection 2006 in April in Shanghai, and invite the participation by US and European governments and

companies and key Chinese enterprises.

7. To hold the International Forum on IPR protection at Exhibitions and Fairs so as to discuss experience and suggestions concerning IPR protection with relevant countries.

8. To hold four communication meetings with foreign invested enterprises, with the participation of economic and trade staff from foreign embassies and foreign chambers of commerce in China.

#### **(VII) Others**

1. To compile and publicize typical domestic and foreign-related trademark infringement cases on a regular basis.

2. To launch copyright protection columns on TV or in newspapers, or to educate widely on copyright protection through seminars and lectures.

3. To fix the first open day of SIPO on April 26, when the general public and staff from foreign embassies in China will be invited to visit the patent review and approval procedures and various service facilities and hear introduction on the role of China's IPR regime and the effects of IPR protection.

4. To widely promote the revised Guidelines on Patent Review across the country and further spread legal knowledge on patents.

### **V. Plans on training and education**

#### **(I) To implement the Project of Fostering IPR Talents**

The Project of Fostering IPR Talents will be launched in the IPR system throughout the country. In the 11th five-year plan, a team will be trained consisting of several hundreds of high-level talented people proficient at IPR international rules, several thousand of people engaged in patent management, review and administrative law enforcement, and tens of thousands of high-quality people working on IPR in enterprises, public institutions and patent intermediary agencies.

## **(II) IPR training for leading officials**

1. To hold a "Training Program for Executives and Leading IPR Managers from Key Domestic Enterprises".
2. To hold a "IPR Training Program for Leaders and Staff from Local Offices of Rectification and Standardization of Market Order or Office on IPR Protection in May.
3. To hold a "Training Program on IPR Strategy for leaders at the Director-General level".
4. To hold a "Training Program on IPR Education in Institutions of Higher Education".
5. To hold a "Training Program for IPR Teachers of SIPO".
6. To hold a "Special Training Program for Commissioners of SIPO".
7. Public security delegations on IPR protection will be organized to visit the U.S. and Europe for acquiring information of foreign legal systems and law enforcement mechanisms, learning the advanced practice and experience of foreign law enforcement organs in using strategies and intelligence to fight against IPR infringing crimes.

## **(III) Training of law enforcement team**

1. Three sessions of IPR training course will be organized with Germany for administrative law enforcement staff.
2. To hold seminars for local public security leading officials.
3. To hold training classes for grass-root police, improve the law enforcement ability and level through three aspects of law, IPR knowledge and enforcement tactics, and foster gradually a group of professionals.
4. To hold training and communication courses on IPR law enforcement.
5. To hold training courses on enforcement of IPR infringing cases among public security authorities.

6. To hold two sessions of training course on IPR protection at exhibitions and fairs for relevant domestic enterprises.

7. To hold training program for domestic and foreign small and medium sized enterprises on IPR protection at exhibitions and fairs.

8. Two sessions of training course will be held for administrative law enforcement staff in the cultural market, with the grass-root staff as the priority, to further improve the ability and skill of the law enforcement workforce to distinguish and monitor pirated audio-video products and illegal online games.

9. To enhance the IPR law enforcement training for front-line officials, especially on-the-spot personnel in charge of control on goods and postal items.

10. To proactively conduct professional training on trademark law enforcement, and subjects in relation with the transfer of trademark-related crimes and the handling of the conflicts between trademarks and the names of the enterprises, in a bid to improve the professional quality of trademark administrative enforcement personnel.

11. To reinforce the trainees' understanding of the importance of the IPR protection, enable them to understand more clearly the severity of situations at home and abroad and enhance their IPR protection awareness in the process when the State Food and Drug Administration is training its civil servants, personnel working for its subordinate institutions and certified pharmacists.

12. To organise for the backbone officials working for the departments in the system of the SIPO three sessions of training programs designed for advanced IPR managers and legal personnel.

13. To organise nationwide training program on patent administrative enforcement in a bid to launch in greater depth the training for patent-related law enforcement personnel.

14. To organise one to two sessions of training programs for IPR-specialised judges.

#### **(IV) Basic education**

To promote the “introduction of IPR education into communities, schools and enterprises”.

### **VI. Plans on international exchange and cooperation**

#### **(I) To enhance international exchange and cooperation in legislation**

1. A trip to Europe in January to study the European legal system for patent agency.

2. A trip to Europe in March to study the system of copyright protection on the Internet.

#### **(II) To enhance the international exchange and cooperation in trademark protection**

1. To maintain and strengthen the two-way exchanges, brainstorming, eye-opening endeavours with the trademark authorities of the countries and regions that have frequent exchanges with China, enhance the collaboration with them, and promote bilateral trade and investment.

2. To maintain and strengthen the exchanges and cooperation with international organisations including WIPO and WTO, actively participate in international trademark legal affairs including the negotiations on geographic indication protection and revision of the Trademark Law Treaty, and try to set out new international rules on trademark protection.

3. To understand the needs of overseas Chinese enterprises for trademark protection, and coordinate and protect trademark interests of Chinese enterprises in foreign countries in dealings with foreign countries.

#### **(III) To enhance the international exchange and cooperation in copyright protection**

1. To hold on a regular basis joint-conference of Sino-U.S. motion picture



copyright protection coordination mechanism, sum up the experience of the Sino-U.S. motion picture copyright protection coordination mechanism, enhance the communication and understanding between China and the U.S., and continue the discussion about effective models for the strengthening of international IPR co-operation.

2. To continue the exchange and cooperation with international organisations such as WIPO, WTO, UNESCO and APEC in the sphere of copyright protection, actively participate in the multilateral negotiations and international conferences on the formulation of new international copyright rules.

3. To launch and develop proactively the cooperative relations in copyright protection with developing countries, especially Asian countries, and strive to change the international copyright protection regime that does not favour developing countries.

4. To enhance the cooperation with copyright-related industry organisations in foreign countries, jointly crack down on cross-border online infringement and piracy activities. To collaborate with foreign industry organisations such as the MPA and IFPI of the United States, and enhance the co-operation in the fields of information sharing, technical services, training, etc.

5. To invite international organisations to visit China and show them the China's achievements of IPR protection. To further strengthen the communication and exchanges with foreign IP right holders organisations, such as the IIPA.

**(IV) To enhance the international exchange and co-operation in patent protection**

1. To organise summit meetings between Chinese and American IPR authorities. Invited by the U.S. Patent & Trademark Office, Commissioner Tian Lipu will go to the U.S. for a meeting between the two commissioners.

2. To organise presentation meeting on China's IPR protection regime in

Singapore, explaining mainly the IPR protection system of China in a bid to promote Sino-Singaporean trade and economic relations.

3. To organise a WIPO-SIPO circuit PCT seminar across the country in three cities in a period of 2 weeks.

4. To jointly organise with the U.S. Patent & Trademark Office a Sino-U.S. IPR seminar to discuss the protection of genetic resources and traditional knowledge, as requested by the U.S. side.

5. To organise an international seminar on genetic resource, traditional knowledge and folklore for the Asia-Pacific region.

6. To dispatch visiting scholars to the U.S. Patent & Trademark Office for training.

7. To dispatch people to the John Marshall Law School, the Franklin Pierce Law Centre, and the Law School of the University of Washington to study.

8. To organise symposium to solicit opinions on the revision of the Patent Law. To invite representatives of foreign embassies and consulates to attend the symposium where their opinions and recommendations on the third revision of the patent law will be learned.

**(V) To enhance the international exchange and cooperation in customs IPR protection**

To initiate the cooperation mechanism with the U.S. Customs Service regarding the “exchange of information and intelligence of IPR cases” under the framework of the JCCT.

**VII. Plans on promoting enterprise self-discipline**

(I) To organise an “Enterprises’ IPR Protection and Indigenous Innovation Conference”

To organise in February an “Enterprise IPR Protection and Indigenous

Innovation Conference” by China Enterprise Confederation, All-China Federation Of Industry and Commerce and China Association of Enterprises with Foreign Investment. To publish an Enterprise IPR Protection Proposal by the three sponsors, and sign jointly by Chinese and foreign enterprises attending the Congress a Proposal for Enterprises to Use Legal Software. To jointly signed by 15 departments under the State Council and the Supreme People’s Court and the Supreme People’s Procuratorate a Letter to Support “Enterprises’ IPR Protection and Independent Innovation”, and to publish by national enterprises an “IPR Protection Echoing Letter”.

**(II). To quickly formulate and implement the Working Program on Promoting Large Companies and Public Institutions to Use Legalized Software.**

It is planned to publicize the Working Program on Promoting Large Companies and Public Institutions to Use Legalized Software. Starting from the second quarter, efforts in promoting companies to use legalized software will start.

**(III). To intensify the administration of manufacturing and selling in the field of software pre-installation.**

1. To encourage and request computer manufactures to pre-install legalized software before products leaving the factory.

2. To encourage government departments and large state-owned enterprises (SOEs) to buy brand name computers with pre-installed legalized software when purchasing office computers.

**VIII. Plans on services for right holders**

(I). To set up a patent data search system in the area of information technology. To help companies enhance their capability in searching and analyzing patent information, solve practical problems of the companies in using IPR-related information, and to elevate their IPR management level.

(II). To further improve the efficiency in trademark registration, the accuracy and impartiality of trademark review decision and arbitration ruling of trademark-related disputes.

(III). To vigorously promote the establishment of phase III system of automated trademark registration and management.

To optimize the function of the trademark database online search system and China's trademark website and constantly improve the social service quality for trade registration and management.

**(IV). To strengthen the well-known trademark recognition and protection efforts.** To summarize the experiences in recognizing and protecting well-known trademarks since the implementation of the new trademark law, make intensified efforts in recognizing and protecting well-know trademarks, and to foster more advantaged companies with well-known trademarks and strong international competitiveness.

**(V). To carry out targeted training on and popularization of trademark international registration knowledge.** To research and study on the overseas trademark protection situation of companies with well-known trademarks and foreign trade companies, and to carry out targeted training on and popularization of trademark international registration information.

**(VI). To set up the National Intellectual Property Office Government Portal Website.**

1. The general objective of the Website is, in line with the requirement to transform government functions, improve the quality of government information service, strengthen the rule-based administration capability of the government, enhance the transparency of government operation procedures, and to help the government better serve the general public, to set up a convenient, quick and efficient channel offering convenient services and serving as an interactive platform so that the

general public can, through the portal website, keep abreast of the IPR developments and relevant IPR information in a timely manner.

2. The main contents of the Website include: patent application information, table download, patent protection, patent document, patent document search (free of charge), patent online consulting, laws and regulations, statistical information, etc.

3. Role of the Website: By setting up such a portal website, to further improve the quality of information service provided by the Intellectual Property Offices for the general public, and to play a more positive role in strengthening the protection over patent application, and promoting the popularization of patented technologies.

**(VII). To hold symposiums to solicit opinions and suggestions.**

1. To hold symposiums between Intellectual Property Offices and leading companies in different industries, where Chinese companies invested by Top Fortune 500 companies will be invited, to solicit their opinions and suggestions on patent review.

2. To organize symposiums with patent agents to ask for their opinions and suggestions on patent review done by the Intellectual Property Offices.

**(VIII). To set up a feedback mechanism on patent review quality.** To preliminarily shaping up a relatively complete feedback mechanism for patent review quality, to promote the effective supervision over the patent review work of the Intellectual Property Offices by patent inventors, applicants, right holders and the general public.

**(IX). To establish and improve intermediary agencies and industrial associations.** To intensify investigation and research efforts, propose policies and measures encouraging and supporting the establishment and development of intermediary institutions. To actively support and encourage industrial associations and social intermediary organizations to perform, and to give full play to their important role in serving the community and the industries, so as to forge a favorable

interactive relationship in which the government is the supervisor and administrator, social entities safeguard their rights, and companies operate legally.

### **IX. Plans on subject research.**

(I). **To analyze the reasoning of China's accession to the Internet Treaty.** To have in-depth study on relevant developments in relation with China's accession to the Internet Treaty, and, on the basis of which and also in line with China's specific national conditions, to analyze the reasoning.

(II). **To investigate and research on the issue of software legalization in the Chinese market.** To identify existing problems in the software legalization efforts, consolidate current results, and further promote the overall progress of this endeavor in order to ensure the sound development of China's software industry and the shaping up of an orderly market environment.

(III). **To intensify the study on the customs' case handling procedures,** rules on evidence and law enforcement difficulties in IPR cases, as well as their coordination with other law-enforcement bodies.

(IV). **To continue the dedicated research on "IPR Issues in the Pharmaceutical Field".** To propose IPR policies and countermeasures for promoting and protecting the development of China's pharmaceutical industry.

(V). **To launch key research on the issue of "Improving the judicial IPR protection mechanism".** To propose scientific measures and workable suggestions on how to further improve the IPR judicial protection mechanism with a view to facilitating the litigation process of the parties involved and the hearing process of the courts, optimizing the allocation of court resources, simplifying the remedy proceedings, and ensuring the judicial integrity.