



經濟部智慧財產局

INTELLECTUAL PROPERTY OFFICE

MINISTRY OF ECONOMIC AFFAIRS

January to March 2020

Quarterly Report on Intellectual Property Rights Protection in Taiwan

In lieu of the ever-expanding COVID-19 outbreak, which is considered as “natural calamity or other causes not attributable to the applicant” in Article 17 of the Patent Act and Article 12 of the Enforcement Rules of the Patent Act, as well as Article 8 of the Trademark Act and Article 9 of the Enforcement Rules of the Trademark Act, patent and trademark applicants may ask for reinstatement accordingly by presenting relevant documents. In principle, such cases will be determined leniently.

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Special Report

Patent and trademark applicants may ask for reinstatement if failing to comply within a statutory time period due to COVID-19

TIPO hereby announces the following information again. On patent and trademark applications and other relevant procedures, in lieu of the ever-expanding COVID-19 outbreak, which is considered as “natural calamity or other causes not attributable to the applicant” in Article 17 of the Patent Act and Article 12 of the Enforcement Rules of the Patent Act, as well as Article 8 of the Trademark Act and Article 9 of the Enforcement Rules of the Trademark Act, patent and trademark applicants may ask for reinstatement accordingly by presenting relevant documents. In principle, such cases will be determined leniently.

Legislative Amendments

1.Under the Trade Secrets Act, “Confidentiality Order for Prosecutorial Investigation” came into force on January 15

To strengthen protection of trade secrets during investigation proceedings, the Legislative Yuan passed a partial amendment to the Trade Secrets Act on December 31, 2019 after a third reading. A “confidentiality order for prosecutorial investigation” system was thus introduced to avoid a second leak of trade secrets during investigation. This shall increase corporations’ willingness to file a lawsuit, and enable prosecutors to effectively and quickly conclude their investigations. The amendment also increases protection of foreigners’ trade secrets, so as to attract foreign investment and boost business development. For example, an unauthorized foreign juristic person may file a complaint, initiate a private prosecution, or institute a civil lawsuit. The amendment came into force on January 15, 2020 through a presidential order.

2.Announcement of the draft amendments to the Copyright Act

To make Taiwan’s copyright laws more comprehensive, TIPO proposed draft amendments to the Copyright Act in terms of the major issues that can affect the public deeply. In total, 32 articles were amended, 5 articles were added, and three articles were deleted. The points to the amendments are as follows:

- I. In response to recent technological development, TIPO amended the definition for public broadcasting and public transmission, and added the right to simultaneous further communication to the public.
- II. TIPO discussed who should enjoy the copyright and whether this would be reasonable. TIPO also amended the person(s) to enjoy the economic right subsisting in a completed work in a contract between an employer and an employee. In addition, it amended the legal relationship between the commissioning party and the commissioned party, so that no matter the commissioned party is a natural or juristic person, the commissioning party must serve as the author according to the contract between the two parties, thereby meeting the actual needs.
- III. To facilitate the circulation and use of works, TIPO amended the rules for moral rights. It excluded the performer’s right to the public release of his or her work, and also amended the definition for public release.
- IV. TIPO amended the definition for the fair use of the limitations on economic rights, including the fair use of long-distance courses of schools and that of browsing through texts online of libraries under certain conditions. TIPO also amended the fair use of a work for not-for-profit activities – the organizer of a regular, not-for-profit activity may use the work upon a fair amount of remuneration, without having to acquire the consent or authorization of the rights holder. As to people who play music with their own devices for dancing in a park, no licensing or payment is needed.
- V. About amending the rules for compensation for damages
 - i. Amendments were made to the rules of the burden of proof for claiming compensation. The injured party may ask the court to set a compensation amount between NT\$10,000 and NT\$1 million depending on the details of damages.
 - ii. According to the amendments, an injured party may choose to claim compensation for damages based on his or her licensing fee. This shall encourage the injured party to accept civil compensation instead of criminal litigation.
- VI. About amending outdated rules for criminal liability
 - i. Delete minimum imprisonment of six months for some minor infringement of copyright. The court may set the details of the punishment according to the cases, so as to avoid over-punishment.
 - ii. The persons who sell authentic goods imported from overseas in Taiwan without authorization will not be bound by criminal liability anymore.
 - iii. Delete the criminal punishment for distributing authentic goods, for which civil remedy is available under the current Act. This shall set the liability of distributing authentic goods apart from that of distributing counterfeit goods.

For more information (in Mandarin), please visit:

A general description of the draft amendments to the Copyright Act:

<https://www.tipo.gov.tw/tw/dl-263874-65bffd1942934d47aff32a716d8b0a21.html>

A comparison table of the current and the amended Copyright Act in draft:

<https://www.tipo.gov.tw/tw/dl-263875-938c057e7f654fd9b86bc9ab68c18cc9.html>

3. New “Fast-Track” trademark examination mechanism to hit the road on May 1

To encourage applicants to utilize TIPO’s e-filing system and to speed up trademark examination, TIPO will enforce a “Fast-Track” mechanism soon. From May 1 on, the trademark applicants whose applications meet the following requirements at the time of application will find their cases examined two months earlier than others:

- I. E-filing.
- II. Only applications for plain trademarks are eligible, excluding non-traditional trademarks, certification marks, collective membership marks and collective trademarks.
- III. The names of the designated goods or services are exactly the same as the ones listed in TIPO’s e-filing system.
- IV. The fees are paid through a designated bank account or an electronic payment sheet in printed form by the counter or via eATM.
- V. A power of attorney should be presented if there is an agent or agents in power.

The system will determine whether a case is fit for the Fast-Track mechanism. If the case meets all of the aforementioned requirements, it will automatically enter into the mechanism without an additional application form or extra fee.

Once all requirements are met, this type of applications will be prioritized for examination. The applicant should expect to know whether his or her trademark can be registered 1.5 months earlier than the current average first action (FA) period. This will help the applicant use his or her trademark to expand business activities and build a portfolio sooner. Nevertheless, the “first-to-file” principle still applies here. That is, the applications which arrive at TIPO first will still be registered first, thus expelling late comers.

The qualified trademark applications cases will be noted as “Fast-Track cases” in a detailed form in TIPO’s trademark search system about 1 month after e-filing, and its status will also be shown. Feel free to utilize the service!

For more information (in Mandarin), please visit:

Fast-Track Q&A

<https://www.tipo.gov.tw/tw/dl-273573-10dc8c9f457247ed8ea778450272b900.html>

About the Fast-Track mechanism

<https://www.tipo.gov.tw/tw/dl-273576-d0c4d992ccb9420f9ad2839839a0fc62.html>

4. Draft amendments to the “Regulations Governing the Implementation of Filing Trademark Applications and Services by Electronic Means” and “Regulations Governing the Implementation of Filing Patent Applications and Services by Electronic Means” were announced

To facilitate the filing of trademark and patent applications through electronic means, TIPO offered additional options when the files are too big or when the system is out of service. The draft amendments to the two regulations as mentioned in the title of the news were respectively released on March 6 and March 18, for 60 days.

5. Version 11-2020 of the Taiwan-Japan Concordance of Similar Group Codes is released

In conjunction with the modification to the 11th Edition-Version 2020 of the Nice Classification made by the World Intellectual Property Organization, TIPO renewed the Taiwan-Japan Concordance List of Similar Group Codes corresponding to Nice Classification, 11th Edition–Version 2020 (NCL11-2020), as a reference for Taiwanese and Japanese trademark registration applicants to utilize this List when searching for currently registered trademarks.

For more information (in Mandarin), please visit: <https://www1.tipo.gov.tw/public/Attachment/01221740526.pdf>

Latest News

1. TIPO statistics report: patent and trademark applications in 2019

Of the patent applications which TIPO received in 2019, 74,652 were invention patent applications, marking a 2% year-on-year increase and a third-year consecutive growth. Design patent applications rose by 9% with 8,804 cases, while the decrease in utility model patent applications (17,580 cases) narrowed from 8% in 2018 to 2% in 2019.

Invention patent applications (18,984 cases) filed by residents hit a 5-year high (2015). This was due to a 6% rise in the number of applications filed by corporations, and those by large enterprises and small and medium enterprises (SMEs) also saw a 6% growth. Both utility model applications (16,412 cases) and design patent applications (4,208 cases) dropped roughly by 1% from last year. As for non-resident applications, invention patents (29,284 cases) rose by 1% and design patents (4,596 cases) grew by 20%.

In terms of trademarks, the number of applications (86,794 cases) hit a record high in 19 years (2001). This was due mainly to a 3% increase in resident applications (61,928 cases).

Of residents’ trademark applications, Nice class 35 (advertising, business management and so on) topped the list with 11,040 cases, followed by class 43 (restaurants, lodgings and so on) and class 30 (coffee, tea, pastry and so on). Applications filed by the top 5 classes all saw growths between 2% and 6%. Among resident company applicants, UNI-PRESIDENT ranked first with 432 cases, followed by TAICHUNG CITY GOVERNMENT (360 cases).

Of non-residents' trademark applications, class 9 (computers, technology products and so on) championed with 4,761 cases, followed by class 35 (advertising, business management and so on) and class 3 (cosmetics, detergents and so on). Among non-resident company applicants, HUAWEI led with 166 cases, followed by LINE with 138 cases.

Please feel free to download our patent and trademark applications statistics of the past year.

For more information (in Mandarin), please visit: TIPO statistics report: patent and trademark applications in 2019 <https://www.tipo.gov.tw/tw/cp-87-863836-640cf-1.html>

2. TIPO statistics report: Patent Prosecution Highway applications in 2019

In recent years, the number of patent applications has seen a significant growth, due to rapid economic developments around the world. Thus, the globe's IP offices are all actively signing Patent Prosecution Highway (PPH) programs to share examination results, thereby ultimately reducing the patent backlog. At this moment, TIPO has been in PPH cooperation with six countries: the United States (effective since Sept. 1, 2011), Japan (effective since May 1, 2012), Spain (effective since Oct. 1, 2013), South Korea (effective since April 1, 2015), Poland (effective since August 1, 2017), and Canada (effective since Feb. 1, 2018), to help applicants acquire patent examination results sooner.

As of end of 2019, Taiwan-US and Taiwan-Japan applications have taken up the largest proportion of the total PPH applications, at 3,007 and 3,529 respectively. In 2019 alone, the number was 455 and 427 respectively. On average, in 2019, it took 47.4 days for an applicant to receive an Office Action (OA) and 118.5 days to receive examination results of a PPH case. PPH has truly reduced the time needed in comparison with invention patent applications which requires 258.3 days for an applicant to receive an Office Action (OA) and 407.7 days to receive examination results, and thus beneficial to patent applicants in terms of acquiring their rights in the contracted countries. TIPO will actively formulate PPH cooperation frameworks with international counterparts. Through this mechanism, TIPO looks forward to assisting applicants in expanding their patent portfolios around the world, in addition to improving patent examination efficiency.

For more information (in Mandarin), please visit: <https://www.tipo.gov.tw/tw/cp-85-863869-e93de-1.html>

3. Information about the 2020 Seminar on Patent Laws and onsite Q&As are out

Four sessions of the "2020 Seminar on the Points to Amendments to the Patent Examination Guidelines on Medical-related Inventions and Cases Relating to Emerging Technologies" were held in Hsinchu, Taichung, Tainan and Kaohsiung recently. Despite COVID-19, attendance rate was an impressive 85% and the occasion was zealously embraced by the audience. The Taipei session was suspended due to the pandemic, but all relevant information and the onsite Q&As are now available at TIPO's website. Please feel free to download the materials.

For more information (in Mandarin), please visit: <https://www.tipo.gov.tw/tw/cp-85-873284-1242f-1.html>

4. MOE sets up an email for reporting TANet-related IP infringement offenses

The Ministry of Education has set up an email address (abuse@moe.edu.tw) for reporting TANet-related IP infringement offenses. The Taiwan Book Publishers Association, a rights-holder group in Taiwan, reported 3 times through the email from January to March, to ask the MOE to thwart access attempts through TANet to link to foreign infringing websites containing pirated textbooks. The MOE has responded and banned such access.

5. Implementation of the "Protection Act for the Traditional Intellectual Creations of Indigenous Peoples" by the Council of Indigenous Peoples

Since the Protection Act for the Traditional Intellectual Creations of Indigenous Peoples came into force in 2015 till now, the Council of Indigenous Peoples have received 133 exclusive right applications, which are combined into 104 cases in total. Of these, deliberation of 83 cases (80%) is complete. 16 cases (15%) still await deliberation, and 5 cases (5%) have been revoked. Of the 83 deliberated cases, 67 cases (81%) have received their exclusive right. 1 case (1%) will receive the right in April, and 6 cases (7%) will receive the right upon amendment of application documents. 2 cases (2%) require further deliberation upon amendments, and 7 cases (9%) have been revoked after deliberation.

Law Enforcement Results and Statistics

The National Police Agency (NPA)

1. Law enforcement results

From January to March 2020, a total of 364 copyright infringement cases involving 437 suspects worth NT\$ 1.04 billion; a total of 477 trademark infringement cases involving 553 suspects worth NT\$ 815 million; and 4 trade secret violation cases involving 12 suspects worth NT\$ 1.08 billion, were recorded. In total, there were 845 IPR infringement cases involving 1,002 suspects, with the amount of money lost as a result reaching about NT\$ 2.94 billion. The abovementioned cases were later transferred to district prosecutors' offices for further investigation.

2. Major Cases

The Criminal Investigation Brigade (CIBr) discovered that a former vice president of a biotech company reproduced the skills, manufacturing processes, and formulas of company's cosmetics and skin care products, which are considered as trade secrets, without authorization. The former vice president misappropriated a total of 46,082 files with trade secrets, whose value are estimated at NT\$1 billion.

3. International exchanges

Economic Section Director Fukumura Taku and two other members of the Taipei Office, Japan-Taiwan Exchange Association visited the Criminal Investigation Brigade (CIBr) on January 13. The two sides exchanged views of enforcing more crack-downs on counterfeit goods.

Statistics for IP Infringement Cases by the National Police Agency, NPA

Unit: case/person (Jan.-Mar. 2020)

Year	Total		Trademarks		Copyright		
	No. of Cases	No. of Suspects	No. of Cases	No. of Suspects	No. of Cases	No. of Suspects	No. of CDs Confiscated
2020 Jan.-Mar	491	604	123	155	364	437	43
2019 Jan.-Mar.	911	1,062	461	553	450	509	33
Percentage Change: 2020/2019 Jan.-Mar.	-46.10	-43.13	-73.32	-71.97	-19.11	-14.15	30.30

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

Joint Optical Disk Enforcement Taskforce (JODE)

From January to March 2020, the Joint Optical Disk Enforcement Taskforce (JODE) of the Ministry of Economic Affairs has conducted a total of 17 inspections on OD factories, printing plate factories, and related facilities, 43 inspections fewer in comparison with the same period last year (60 times), due to the COVID-19 outbreak. The JODE also consulted law-abiding OD factories to establish an internal control and audit system and has carried out, during this period, 2 relevant documented audits in this regard. No major violation was found as a result.

JODE's Inspection Results

(Jan.-Mar. 2020)

		2019	2019	2020
			Jan.-Mar.	Jan.-Mar.
Number of Inspections		255	60	17
Audit/Consultation		26	8	2
Number of Cases Found Violating the Optical Disk Act		0	0	0
Number of Plants Closed	Manufacturing Plants	3	0	0
	Packaging Plants	0	0	0
Number of Cases Prosecuted		0	0	0
Number of Suspects Prosecuted		0	0	0
Number of Administrative Dispositions		0	0	0
Number of Machines Seized		0	0	0
Number of Illegal ODs (Pieces)		0	0	0

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

The Customs Administration

1. Law Enforcement Results

(1) The Customs Administration of the Ministry of Finance has been carrying out its duties regarding border protection in accordance with the Regulations Governing Customs Measures in Protecting the Rights and Interests of Trademark, and the Operational Directions for Customs Authorities in Implementing Measures for Protecting the Rights and Interests of Patent and Copyright. Results of the Customs Administration from January to March 2020 are listed as follows:

Jan-Mar. 2020	Trademark Violations		Copyright Violations		False declaration of SID codes	False declaration of trademarks
	Exports	Imports	Exports	Imports		
No. of cases	0	60	0	0	4	50
No. of items	0	11,718	0	0	6,249	4,572,851

* Here, "False Declaration of Trademarks" refers to failing to or untruthfully declared trademarks, as prescribed in paragraph 3, Article 17 of the Foreign Trade Act.
Source: Customs Administration, Ministry of Finance

(2) From January to March 2020, customs across Taiwan received 27 requests for lodging advice on protecting trademark rights, 27 requests for extending the terms for advice on protecting trademark rights, and 57 requests for updating documents. In total, there were 111 requests.

(3) On January 1, Taipei Custom uncovered a total of 867 counterfeit "CASIO/G-SHOCK" watches imported via express delivery. The goods have been seized.

(4) On January 18, Taipei Custom uncovered a total of 599 counterfeit "JBL" earphones imported via express delivery. The goods have been seized.

2. International exchange

- (1) Customs Administration Director-General Hsieh Ling-yuan visited Japan from February 2 to 7 upon invitation from the Japan-Taiwan Exchange Association. During the trip, Hsieh attended talks and exchanged views on intellectual property protection with the representatives of a few institutions there, such as the Japan Customs Administration and Japan Intellectual Property Association.
- (2) As part of its efforts to step up exchange of information on counterfeiting with global counterparts, the Customs Administration from January to March provided 15 pieces of information for customs authorities of other countries.

The Taiwan High Prosecutors' Office (THPO)

1. Court Rulings

From January to March 2020, the District Prosecutors Offices in Taiwan have investigated and closed a total of 491 cases suspected of IPR infringement, involving 555 suspects. Among them, 175 suspects in 136 cases were indicted under ordinary procedures; 185 suspects in 177 cases had their cases heard in a summary judgment; 162 suspects in 147 cases were granted a deferred prosecution; and 33 suspects in 31 cases were not indicted on ex officio grounds. In total, 269 people were convicted guilty by the court during this period, resulting in a conviction rate of 91.81%.

In comparison with statistics from the same period of time last year (2019), the number of suspects indicted (including those applied to have their cases heard in a summary judgment) in 2019 stood at 270, while that in 2020 reached 360 (+90), resulting in a 33.33% year-on-year increase. With regard to the number of suspects convicted, the figure stood at 175 in 2019 and 269 in 2020 (+94), representing a 53.71% year-on-year increase.

Status of adjudication of Taiwan District Courts on IPR infringement cases unit: person

Categories	Year	Results of Court Rulings													
		Total	Imprisonment								Exemption	Not Guilty	Not Prosecutable	Case Declined	Others
			Subtotal	Under 6 Months	6-12 Months	1-2 Year(s)	2-3 Years	Over 3 Years	Detention	Fines					
Total	Jan.-Mar. 2020	347	269	90	4	7	-	-	153	15	-	24	5	49	-
	Jan.-Mar. 2019	269	175	56	1	-	-	-	113	5	-	19	-	75	-
	YoY %	29.00	53.71	60.71	0.00	0.00	0.00	0.00	35.40	200.00	0.00	26.32	0.00	-34.67	0.00

Source: Taiwan High Prosecutors' Office

IPR Awareness Campaigns

1. National Policy Agency of the Ministry of the Interior conducts awareness campaigns on laws and regulations

In the first quarter of 2020, the Criminal Investigation Brigade (CIBr) visited a total of 53 companies. The CIBr provided information related to trade secret laws, assisted in examining confidentiality measures, and conducted 21 courses on trade secret laws.

2. Customs Administration, Ministry of Finance

- (1) Taipei Custom, Customs Administration, Ministry of Finance hold an advocacy event on January 7 to specify that the Customs Administration will not process the registration no. of bills of lading and simple declaration forms B6B, B6C and B6D from January 16 onwards. In March 4, Taipei Custom held the Talk on Custom Affairs for the first time in 2020, explaining IPR border measures and relevant laws to customs brokers.
- (2) Taichung Custom, Customs Administration, Ministry of Finance explained IPR border measures and relevant laws to customs brokers on February 19.

3. Ministry of Foreign Affairs advocates IPR protection

At Taiwan Today, an electronic newspaper, a total of 8 articles on Taiwan's IPR policies were published, in languages such as English, Japanese, French, German, Russian, Indonesian, and Vietnamese.

4. Council of Indigenous Peoples advocates IPR protection

- (1) On February 1, the Council of Indigenous Peoples entrusted a law firm to host a plan entitled Legal Services for Protecting Traditional Intellectual Creations of Indigenous Peoples, providing indigenous peoples and other members of the public professional consultation, opinions, and remedies relating to the Protection Act for the Traditional Intellectual Creations of Indigenous Peoples.
- (2) On March 30, the Council of Indigenous Peoples released the "2020 Talent Cultivation Program for Protecting Traditional Intellectual Creations of Indigenous Peoples", and invited colleges and universities to propose relevant plans. Starting from September this year, talks and intensive/credit courses will be held.

5. Ministry of Education advocates IPR protection

- (1) In March, the Ministry of Education notified public and private colleges and universities in written to remind their students to use authorized textbooks and any other course materials (including second-hand ones) instead of illegally photo copying, downloading, or uploading them, so as not to infringe the authors' copyrights.
- (2) Also in March, the Ministry of Education sent an official notice to public and private colleges and universities to promote "Tips for Teachers on Teaching Copyright" by TIPO, MOEA, stressing that teachers are free to utilize the materials. TIPO hopes that teachers can help to spread the right ideas about copyright. MOE also asked schools to examine their teaching platforms regularly. Unauthorized materials should be removed, so as to ensure the authors' rights. Moreover, amidst the COVID-19 outbreak, all teaching materials used for long-distance courses should still conform to the Copyright Act.

6. Ministry of Economic Affairs advocates IPR protection

(1) IPR awareness lecture series

- i. On March 21 and 28, respectively at National Taiwan Normal University and National Taiwan University of Sports, the seed teacher training for Campus IPR Assistance Team in year 2020 was held. A total of 84 law majors from local colleges and universities joined the occasion. This is expected to facilitate the holding of awareness events at elementary schools, high schools, and vocational schools in the future.
- ii. On March 13, at Kaohsiung Software Park, an explanation event on protecting and registering trademarks for start-ups was held, so that they could quickly understand the trademark system in Taiwan and registration procedures, as well as trademark protection.
- iii. On February 5, with effort from the Taiwan Association for Trade Secrets Protection, a company visit for judicial officers on enhancing trade secret protection was held. On the IC design sector, semi-conductor industry chains, and strategies for protecting trade secrets and patents, the officers exchanged their views with company representatives. The purpose of this event was to help judicial officers learn more about industry practices, thereby improving examination efficacy of trade secret cases.

(2) About copyright for pictures and videos uploaded and forwarded via LINE

Recently, LINE users might receive a forwarded message stating that "those uploading, forwarding, and/or viewing pictures and/or videos will be fined. Rights holders and copyright trolls have been collecting evidence with LINE to sue people, including LINE group members," but this is fake news.

Earlier in 2017, the misleading rumor was already widespread. TIPO has tried to clear this up and no one has ever been sued under such circumstances. Just to make sure the public will not be troubled by the false information anymore, below is our latest explanation:

Providing an URL (hyperlink) of photographic or video content (such as news reports, pictures, or YouTube) in a LINE group is not defined as "reproduction" or "public transmission" of copyrighted work. In principle, this does not constitute copyright infringement and no violations are thus made.

When uploading pictures, videos, etc. to a public LINE group (exclusive of family and friends), such an act involves "reproduction" and "public transmission." To exploit a piece of work, a license is required. Otherwise, the person who does so might infringe another's rights. Any general or fans' LINE group would be defined as a "public" LINE group. We suggest not to forward unlicensed pictures, videos, and/or articles to it.

Viewing pictures, videos and/or articles in a LINE group without forwarding such content does not constitute copyright infringement. There is no need to panic.

Please be reminded that, in respect of other's economic rights, when forwarding and/or downloading pictures, videos, and articles in LINE, make sure whether this relates to exploitation of the work, so as to avoid being sued by the copyright holder in defense of his or her rights.