

This Notice is hereby given.

- Annexes: 1. Registration Form for Intellectual Property Complaints and Reports (omitted)
2. Referral Form for Intellectual Property Complaints and Reports (omitted)
3. Feedback Form on Handling Results of Intellectual Property Complaints and Reports (omitted)

November 4, 2010

## **Circular Concerning the Printing and Distribution of Special Action Plan on Enforcement among National IP Administrations**

G. ZH. F. G. Z. [2010] No. 140

Intellectual property offices of all provinces, autonomous regions and municipalities under the Central Government,

In order to carry out work arrangements of the State Council, the National IP Office's Action Plan on IPR Enforcement is hereby issued for your implementation.

Local IP offices must pay high attention to the campaign, strengthen leadership, assign responsibilities, provide adequate staffing and make quick arrangements for the local campaign to ensure full implementation of the campaign and build a favorable environment for expediting transformation of the economic development mode, deepening reform and opening up and building an innovative nation.

This Notice is hereby given.

November 5, 2010



## Special Action Plan on Enforcement among National IP Administrations

The National IP Office's Action Plan on IPR Enforcement is formulated for the purpose of effectively carrying out work arrangements of the State Council concerning crackdown on IP infringements and production and sale of fake commodities.

### I. Objectives

To increase initiative of IP offices in performing their enforcement duties through the campaign, increase the efficiency of crackdown on infringements and passing - off activities in the patent field, enhance coordination of intellectual property enforcement, broaden the effects of intellectual property enforcement, improve confidence of consumers, innovators and intellectual property owners, further raise China's image in IP protection, create an environment in favor of fair competition and innovation development and bring good conditions for transformation of China's economic development mode through the campaign.

### II. Tasks

Step up proactive investigations, carry out centralized inspections and crackdowns, intensify law enforcement and case handling and increase efficiency of law enforcement and case handling, with focus placed on such key areas as large exhibitions and fairs, commodity distribution centers, cargo import and export, such key products as high - tech products, agricultural products, food, drugs and industrial design products, and such key cases as stirring intensive response from intellectual property owners, having significant

social impact and receiving strong public attention.

(i) Wage heavy crackdown on repeated, collective and malicious patent infringements and passing - off

Efforts shall be intensified in this campaign to prevent and control repeated, collective and malicious patent infringements and passing - off. Heavy crackdown shall be waged, in coordination with relevant departments, on producers and sellers of products infringing upon and passing off patents that stir strong public response and pose bad impact. Business of these producers and sellers shall be permanently closed in accordance with law under serious circumstances. Local IP offices shall dedicate enforcement resources to carry out proactive enforcement inspections and step up efforts in open handling of cases. Punishment must be increased upon patent offenses and crimes that endanger the security of people's life.

(ii) Effectively play the role of "12330" hotline and the IPR enforcement assistance centers

The role of "12330" hotline for IPR assistance and complaints and the IPR enforcement assistance centers shall be fully played. The IPR enforcement assistance centers shall fully involve themselves in the campaign, receive IP complaints and reports from the general public and IP owners through the "12330" hotline, refer useful clues to relevant administrative law enforcement departments on a timely basis, track handling of cases, provide timely feedback on cases to

complainants and reporters, fully leverage their strengths in convenient, quick and broad – based services, provide supporting services for effective implementation of the campaign, and endeavor to build a major platform to receive IP complaints and reports and public supervision in the campaign.

(iii) Effectively intensify exhibition – related IP enforcement and protection

Local IP offices shall fully leverage their strengths in providing proactive, quick and convenient administrative law enforcement to strengthen exhibition IP enforcement pursuant to relevant laws, policies and regulations. For exhibitions having a major influence in the host place, IP disputes shall be prevented, mediated and handled through pre – examinations, patrol inspection, set up of field service points and other measures. IP enforcement and assistance must be effectively carried out at Guangzhou Asian Games, national exhibitions and international exhibitions.

(iv) Effectively intensify IPR foreign enforcement and protection

IPR foreign enforcement and protection shall be effectively intensified. In areas where export – driven economy is well developed and imports and exports amount to a huge volume, foreign patent infringements and passing – off cases shall be properly handled and domestic and foreign patentees shall be treated equally to protect legitimate rights and interests of all IP owners. Communication and contact shall be strengthened with customs and other departments. Efficient coordination shall be in place between administrative patent enforcement and IP protection by customs. Assistance shall be provided to customs in specialized and techni-

cal work, such as identification of patent infringements. Import and export of cargoes infringing upon IP shall be kept in check to improve China’s international image in IP protection.

(v) Effectively strengthen cross – department and inter – regional collaboration in law enforcement

Local offices shall, within their scope of duties for coordination of IP protection, actively coordinate relevant IP departments to collaborate and effectively carry out the law enforcement campaign and create a sound long – term mechanism of crackdown on IP offenses and crimes.

The collaborative mechanism for law enforcement must be deepened with public security, industrial and commercial administration, copyright, customs, quality inspection, agriculture, forestry and other departments. Cases referred from other departments shall be handled promptly in accordance with law. Clues concerning suspected infringement upon other IP rights during enforcement inspections shall be referred to relevant functional departments on a timely basis.

The existing inter – regional collaboration mechanism for law enforcement shall be fully utilized to strengthen information sharing, communication and collaboration in law enforcement. Referral of cases shall be properly done in line with the division of jurisdiction to prevent any buck – passing and effectively control local protectionism. All provinces, autonomous regions and municipalities directly under the Central Government shall drive forward building of provincial and municipal law enforcement teams within their respective jurisdiction, act in a coordinated manner to deliver collaborative effort and increase efficiency in the campaign.



(vi) Effectively promote coordination between administrative enforcement and judicial protection

Local offices shall effectively promote coordination between administrative enforcement and judicial protection. Local offices must actively carry out administrative mediation and promote coordination between administrative mediation and judicial mediation under principles prescribed by the Central Government on creation of a multi – side mechanism for collaborative mediation, so as to meet needs of IP owners and the public and increase the efficiency of case handling.

Any activity suspected of violating the criminal law shall be immediately referred to the public security authority and, if necessary, earlier intervention of public security authority may be sought, so as to achieve effective coordination between administrative enforcement and criminal justice. The public security authority's liaison offices at IP departments must be established and improved.

(vii) Effectively conduct campaign publicity activities

During the campaign, media resources shall be fully utilized to report on measures, activities, achievements and typical cases, create a strong atmosphere and broaden influence of the campaign to provide a powerful deterrent to criminal activities, and to enhance confidence of IP owners, innovators and consumers in IP protection. Public awareness of the “12330” hotline for IPR assistance and complaints shall be increased, thereby guiding the general public to effectively use the hotline and facilitating IPR protection and supervision by IP owners and all circles of society.

### III. Requirements

(i) Strengthen leadership and refine plans

Local offices shall pay high attention to this campaign, strengthen organization and leadership, assign responsibility, expand staffing, clarify division of duties, appoint responsible persons and contact persons for the campaign and develop and submit to the Office their specific plans for implementation of the campaign in accordance with this Plan.

The Office has set up the steering organization of law enforcement by IP offices. Local offices shall immediately set up their respective steering body of the campaign headed by chief officials, with its membership including deputy heads, heads of functional divisions and heads of municipal (district, Meng and prefectural) offices. A leadership group of the campaign led by government officials and composed of heads of relevant departments shall be established in local areas where conditions permit.

(ii) Increase input to ensure progress

Local offices shall act quickly to implement their plans in accordance with State Council arrangements and this Plan to make smooth progress of the campaign as planned. The campaign shall be included in the agenda of important work and supported by sufficient human resources and materials.

Local offices shall carry out law enforcement inspections and crackdowns to quantitative and qualitative satisfaction. Provincial IP offices, IP offices covered by the “5.26” law enforcement promotion program, and IP offices in IP model cities, candidate model cities, and pilot cities shall carry out at least two enforcement inspections and crackdowns each month in the circulation field, other IP offices shall

carry out at least one enforcement inspection and crackdown each month and make a public disclosure or these activities. Local IP offices having responsible for law enforcement shall ensure that the number of cases handled and the quality of case handling are improved markedly, effort in case handling is intensified significantly to assure progress of the campaign.

(iii) Strengthen supervision and guidance and assign responsibility

The Office will carry out supervision, guidance and inspection of the campaign at appropriate time. Provincial IP offices shall strengthen guidance and inspection of the campaign within their respective jurisdiction. A weekly reporting process must be established for the campaign to strengthen information communication of the campaign. Provincial IP offices shall, starting from the stage of organizing implementation, report to the Office weekly on complaints and reports received as well as campaign measures and activities. Important cases must be submitted on a timely basis. The Office will organize supervisory inspections. Provincial IP offices shall carry out timely supervision and guidance. Initiative and creativity of law enforcement staff shall be stimulated in the campaign. Campaign measures specific to local areas shall be taken. Passive buck – passing shall be eliminated during law enforcement. According to results of supervisory inspection, proactive and outstanding performance shall be rewarded; slow response and poor performance must be corrected promptly; inactions that lead to serious adverse effects shall be investigated and liabilities shall be pursued. Experience shall be reviewed and disseminated on a timely basis. Beneficial explorations in the campaign shall be

converted to long – term mechanisms for standardization and institutionalization.

#### **IV. Timeline and Specific Measures**

(i) Mobilization and Deployment of IPR Enforcement to local IP offices

The National IP Office’s Action Plan on IPR enforcement was developed and issued in late October and early November, 2010, and the steering organization of the national IP office’s action was set up. The Operating Guide for Administrative Patent Enforcement (Sample) (Trial) and the Circular on Strengthening Complaint Handling Services at Intellectual Property Assistance Centers were issued. During the China Patent Week starting from November 7, publicity effort must be made to introduce China’s measures and achievements of administrative patent enforcement and the roles of “12330” hotline and the IPR enforcement assistance centers.

The national IP office enforcement conference will be held on November 12 to communicate important instructions of the State Council on strengthening IP protection and enforcement and the spirit of the national teleconference on IP protection and enforcement, review work of IP offices in the previous stage, mobilize and deploy the IP enforcement campaign and put forward new enforcement initiatives of IP offices. China Intellectual Property Law Enforcement Forum will be held to discuss the ways of increasing effectiveness of infringement crackdown effort and reducing the cost of IPR protection.

Provincial IP offices shall develop local plans for campaign implementation by November 12, establish the steering organization headed by chief officials of provincial IP offices and composed of heads of offices



and functional divisions and chief officials of municipal (District or Meng) offices, appoint responsible persons and contact persons and propose key activities, specific measures and main target places and products of inspection and crackdown. Such plans shall be submitted to the Patent Administration Department of SIPO by November 12.

(ii) Organization of Implementation

In mid – November provincial IP offices will hold a press conference or other publicity events on the local IP enforcement campaign to be attended by municipal offices, the IPR enforcement assistance centers and relevant sectors of the society, publish the campaign plan, measures and progress, announce the local hotline for the IP enforcement campaign, promote “12330”, encourage complaints and reports as well as identify and report typical cases on a timely basis.

In late November, local offices will carry out inspection on infringements and passing – off in supply chain, production, import and export areas, with focus placed on high – tech products, agricultural products, food, drugs and industrial design products, and detect and report problems on a timely basis. Major cases and circumstances shall be directly reported to the Office. The Office will arrange for supervision and handling in line with specific circumstances.

In Later November, the Office will hold a seminar on campaign supervision and patent infringement identification.

From later November to early December, publicity effort will be launched for the campaign across IP offices.

In the middle of each month from November to February, 2011, provincial IP offices, “5.26” law

enforcement promotion program, and IP offices in IP model cities, candidate model cities and pilot cities shall carry out patent enforcement inspections in at least five large shopping centers and commodity distribution centers, and other local IP offices shall carry out patent enforcement inspections in at least two shopping centers and commodity distribution centers. Media coverage of these events shall be provided.

In late December, a public disclosure of major cases and key cases shall be made in collaboration with judicial and other authorities.

From November 2010 to February 2011, local offices shall carry out IP enforcement and protection inspections on a variety of exhibitions and fairs, in particular Asian Games, China Import and Export Fair and other national and international exhibitions.

In early December, the Office will hold the seminar on complaint handling services of IPR assistance centers.

In mid – December, the Office will dispatch a campaign supervision group to such key areas as Guangdong, Zhejiang, Jiangsu, Fujian and Shanghai. Provincial IP offices will guide and review interim work progress of the campaign.

In late December, the Office will compile the IPR enforcement manual and the collection of enforcement survey reports.

In mid – January 2011, the Office will send the campaign supervision team to Chongqing, Hubei, Hunan, Henan and other key areas for enforcement supervision and inspection. Provincial IP offices will inspect and guide work in their local areas.

In late January 2011, local offices will carry out

infringement and passing – off crackdown based on results of enforcement inspections conducted in the previous stage, impose heavy crackdown on repeated, collective and malicious infringements and patent passing – off and order correction within a specified timeframe. If correction is not made satisfactorily, public announcement shall be made through media and, under serious circumstances, the case shall be referred to judicial authorities. Crackdown results and typical cases shall be reported to the Office on a timely basis.

In early – February 2011, the Office will send campaign supervision teams to Beijing, Tianjin, Liaoning, Sichuan, Shaanxi and other key areas for enforcement supervision and inspection. Provincial IP offices will inspect and guide work in their local areas.

In late February 2011, local offices will launch the serious infringement and passing – off crackdown campaign to impose heavy crackdown on producers and sellers of infringing or passing – off products having a major influence or spurring strong public re-

sponse, supported by coordinated effort from relevant departments. Producers and sellers posing serious problems shall be permanently closed and disclosed on media. Crackdown results and cases shall be reported to the Office on a timely basis.

### (iii) Review and Acceptance

From March 1 to 20, 2011, provincial offices will review the local campaign and submit the review report to Patent Administration Department of SIPO by March 20.

From March 21 to 31, 2011, the Office will review the campaign. Those failing to duly perform duties or deliver poor results in the campaign will be criticized and ordered to make correction; malpractice for personal gains or harboring of infringements or passing – off will result in pursuance of legal liability; entities and individuals delivering outstanding performance will be commended openly.

Annex: List of Supervisory Organization Members for the National IP Office's Action on IPR Enforcement (Oct. 2010 – Mar. 2011)

## Annex

### **The National IP Office's Action Plan on IPR Enforcement ( Oct. 2010 – Mar. 2011 )**

#### **List of Supervisory Organization Members**

Director of Supervisory Committee: Tian Lipu

Executive Director of Supervisory Committee: Gan Shaoning, Xiao Xingwei

Members of Supervisory Committee: Ma Weiye, Huang Qing, Gong Yalin, Xu Zhijiang

Tang Dali, Xu Cong, Gao Kang, Ge Shu

Hu Wenhui, Liu Zhihui, Lin Xiaoyue, Han Xiucheng

Song Jianhua, Wang Xiaohui, Liu Zhengang, He Zhimin

Liu Jilei, Yan Yi, Tian Yingnan, Hu Quanlin



Guo Zhenxing, Chang Cheng, Lv Guoqiang, Zhu Yu  
Chen Zhijun, Liu Dong, Luo Xuan, Lai Guangsong  
Li Aimin, Guo Minsheng, Wang Dongfeng, Gong Shiyi  
Tao Kaiyuan, Wei Zhibian, Yang Tianliang, Yuan Jie  
Huang Feng, Jiang Tiancai, Gao Songshan, Wei Jianfeng  
Zhu Xiaoli, Cao Zuo, Liao Bin, Ma Qingyun

Head of Supervisory Workgroup: Ma Weiye

Deputy Head: Cao Donggen, Bao Yanyan, Wu Ningyan, Cao Xiaobin

Sun Jun, Han Li, Zhao Meisheng, Yang Hongju

Office of Supervisory Workgroup: Zhao Meisheng, Chen Mingyuan, Wang Zhichao, Leng Lu