

二〇〇九年中国知识产权保护状况

中华人民共和国国家知识产权局

(本出版物以中英文版本方式发布并以中文版本为准。)

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2009 年是中国国家知识产权战略实施全面启动和夯实基础的关键一年，中国政府紧紧围绕经济建设这一中心任务，全力抵御国际金融危机，大力实施国家知识产权战略，扎实推进知识产权保护各项工作，取得阶段性成果。知识产权立法工作取得新进展，制度体系更为完善；知识产权审批登记能力显著增强，实现新突破；知识产权行政执法水平提升，部门合作开创新局面；知识产权司法保护主渠道作用更为凸显，各项工作迈上新台阶；知识产权体制机制建设更为深化，取得新成绩；知识产权宣传工作富有成效，再上新台阶；知识产权培训工作继续推进，呈现新面貌；知识产权国际合作持续深入，获得新发展。

一、知识产权立法工作取得新进展

2009 年，一系列知识产权法律法规和规章根据现实需要进行了制定和修改，中国知识产权立法工作取得新进展。

2009 年 10 月 1 日，第三次修改后的《专利法》开始施行。修改后的《专利法》提高了授予专利权的条件，完善了强制许可制度，加强了对专利权的保护，有利于中国进一步推动创新型国家建

设。2009年12月30日，《关于修改〈中华人民共和国专利法实施细则〉的决定（草案）》审议通过，修改后的《专利法实施细则》于2010年2月1日起施行。《专利行政执法办法》、《专利实施强制许可办法》等相关部门规章均及时跟进。

2009年，《商标法》第三次修改工作持续推进，已形成《商标法（修订送审稿）》报送国务院。同时，《商标法实施条例》、《商标代理条例》等配套法规的修改、制定工作随之推进；《国家工商行政管理总局驰名商标认定工作细则》及《国家工商行政管理总局商标局审理驰名商标认定案件工作规范意见》的制定完成，也使得驰名商标认定制度进一步完善。

2009年，《著作权法》有关条文的修订工作启动；国家版权局修订颁发了《著作权行政处罚实施办法》，并积极推动《教材法定许可付酬标准》、《著作权质押合同登记办法》、《著作权合同登记和备案管理办法》等行政规章和规范性文件的起草工作。

2009年11月10日，国务院公布了《广播电台电视台播放录音制品支付报酬暂行办法》，该《办法》兼顾了权利人与使用者等各方利益，解决了长期以来广播电视组织使用录音制品缺乏付酬标准依据的问题，并于2010年1月1日起施行。

2009年，为了简化知识产权海关保护程序，进一步明确权利人以及收发货人的权利和义务，海关总署在广泛征求权利人和地方

海关的意见后，完成了《知识产权海关保护条例实施办法》的修订工作，该《办法》于2009年3月3日公布，7月1日起实施。

2009年12月26日，全国人大常委会审议并通过《中华人民共和国侵权责任法》，明确将著作权、专利权、商标专用权等纳入民事主体合法权益的保护范围内，补充和完善了知识产权保护的法律体系。

2009年，最高人民法院发布多项司法解释和规范性文件，进一步明确了有关案件的裁判规则。2009年4月21日，发布《最高人民法院关于当前经济形势下知识产权审判服务大局若干问题的意见》，强调指出：“在当前经济形势下，知识产权司法保护只能加强和提升，不能削弱和放松”，同时明确和完善了一系列知识产权司法政策，在国内产生了广泛、积极的影响；4月23日，发布《最高人民法院关于在审理侵犯商标权等民事纠纷案件中保护驰名商标应用法律若干问题的解释》，进一步规范了驰名商标的司法认定和保护工作，澄清了社会关注的驰名商标司法认定的条件和范围等问题；12月28日，发布《最高人民法院关于审理侵犯专利权纠纷案件应用法律若干问题的解释》，规范了专利权利要求的解释规则，准确确定了专利权保护范围，明确了专利侵权判定标准，对于保障修改后的《专利法》的正确贯彻实施，做好专利案件审理工作，积极推进自主创新具有重要指导意义。

二、知识产权审批登记工作取得新突破

2009年，中国知识产权审批登记工作在金融危机之中逆势而上，在多个方面取得新突破。

中国专利申请持续快速增长，2009年国家知识产权局共受理专利申请976 686件，同比增长17.9%；其中国内申请877 611件，占总量的89.9%，同比增长22.4%；国外来华申请99 075件，占总量的10.1%，同比下降10.9%。

截至2009年底，中国累计受理专利申请5 822 661件，其中国内4 898 473件，占84.1%，国外924 188件，占15.9%。

2009年，国家知识产权局共授权专利581 992件，同比增长41.2%。其中国内授权501 786件，占总量的86.2%，同比增长42.4%；国外授权80 206件，占总量的13.8%，同比增长34.6%。授权专利中，发明专利授权国内所占比重同比上升1.2个百分点，达到50.9%，首次超过国外所占比重。

截至2009年底，国家知识产权局累计授权专利3 083 260件；其中国内2 644 571件，占85.8%，国外438 689件，占14.2%。

2009年全年受理复审请求9 195件，比2008年增加4 835件，同比增长111%；复审请求结案共6 697件。受理无效宣告请求2 247件，比2008年增加209件，同比增长10%；无效宣告请求结案2 310件。

三种专利处理能力显著增强，审查结案量在 2009 年继续高速增长。其中完成发明实质审查 194 850 件，同比增长 32.7%；完成实用新型专利审查 262 648 件，同比增长 28.3%；完成外观设计专利审查 388 905 件，与上一年相比增长显著，增幅达到 80.1%。

专利审批和复审无效周期基本保持稳定。三种专利全流程顺畅无积压。发明专利实审审查周期为 25.8 个月；实用新型专利审查周期缩短为 5.8 个月；外观设计专利审查周期大幅缩短，由上一年度的 9.5 个月减至 5.5 个月。复审无效周期 7.4 个月。专利审查质量的正确性、一致性和时间性指标均达到历史最高水平。

2009 年全年收到集成电路布图设计登记申请 817 件，予以公告并发出证书 655 件。自 2001 年 10 月 1 日《集成电路布图设计保护条例》实施以来，共收到集成电路布图设计登记申请 3 368 件，予以登记公告并发出证书共计 2 957 件。

作为《专利合作条约》受理局，国家知识产权局 2009 年共受理国际申请 8 000 件，同比增长 31.6%。自 1994 年起累计受理国际申请 32 881 件。

2009 年，国家工商行政管理总局商标局（以下简称“商标局”）加快商标审查取得了历史性突破，审查量突破百万大关，2009 年商标申请量突破 80 万件，创历史最高。

商标局全年共受理商标注册申请 830 447 件，同比增长

18.96%，超过历史最高水平（76.63 万件，2006 年）6.42 万件，连续 8 年位居世界第一；共审查商标注册申请 1 414 736 件，同比增长 88.69%，相当于加快审查前近五年的工作量，审查周期为 17 个月；共受理异议申请案件 39 436 件，同比增长 56.24%，共裁定商标异议案件 25 020 件，同比增长 127.60%。截至 2009 年底，中国有效注册商标量为 3 404 534 件，位居世界第一。

2009 年，中国共受理通过世界知识产权组织国际局提交的马德里商标国际注册领土延伸申请 13 267 件（一标多类），国内申请人通过商标局提出的马德里商标国际注册申请 1 346 件（一标多类）。截至 2009 年底，世界知识产权组织国际局有效马德里商标国际注册领土延伸指定中国的申请为 142 830 件（一标多类），连续 5 年位居世界第一；世界知识产权组织国际局收到中国企业通过商标局提出的马德里商标国际注册申请为 9 721 件（一标多类），连续 5 年位列世界十强之一，在发展中国家排名第一。

同时，商标局加大农产品商标和地理标志的注册和保护力度，2009 年，共核准注册农产品商标 14.2 万件，总数达 74.98 万件，地理标志 240 件，总数达 771 件，其中，近两年注册的地理标志数相当于过去 15 年的 1.56 倍。共核准特殊标志登记 751 件，特殊标志登记延期 17 件，官方标志登记 3 件，第 29 届奥组委奥林匹克标志备案转为国际奥委会奥林匹克备案 177 件，世界博览会标志备案

19 件。

2009 年，商标局共受理商标续展注册申请 55 804 件，办理 58 731 件；受理变更商标注册事项申请 96 576 件，办理 106 058 件；受理商标转让申请 64 517 件，办理 66 808 件；受理商标使用许可合同备案申请 17 447 件，办理 17 733 件。

2009 年，国家版权局加强基础建设，提高版权公共服务水平，极大地提高了版权登记备案工作效率。特别是开展推进软件正版化工作以来，计算机软件登记实现较大增长。2009 年各类申请软件登记总量为 70 965 件，同比增长 49.75%，实现软件销售收入从 2006 年的 4 800 亿元增长到 2009 年底的近 9 000 亿元；其中，软件著作权登记量为 67 912 件，同比增长 48.6%，占软件登记总量的 95.7%，相当于 2007 年和 2008 年登记量的总和；软件著作权转让和专有许可合同登记 182 件，同比增长 26.38%；变更或补充登记 2 752 件，同比增长 91.64%；计算机软件著作权质押合同登记 119 件，同比增长 9.17%。

2009 年，知识产权权利人在海关总署申请办理海关知识产权保护备案数量持续快速增长。海关总署全年共审核通过备案 3 002 项，其中核准专利权 731 项，商标专用权 2 146 项，著作权 125 项，年度核准备案总量首次突破 3 000 项。自 1995 年实施知识产权海关备案制度以来，海关总署共核准备案知识产权 19 038 项。同时，

“知识产权海关保护备案申请系统”正在升级改造。

2009年，农业部和林业局持续推进植物新品种保护。2009年，农业部受理国内外品种权申请992件，较2008年868件增长了14%，创历史新高，其中外国人申请104件，较2008年增长12%。年申请量居国际植物新品种保护联盟成员第四位，仅次于欧盟、美国和日本。通过优化品种权申请审查和测试流程，审批效率大大提高，授予品种权达到1119件，较2008年提高了145%。截至2009年12月31日，国内外植物新品种权申请累计达6555件，已结案3407件，授予品种权2595件。受理公示农产品地理标志登记申请244件，颁发了185份农产品地理标志登记证书。截至2009年底，林业局共受理国外植物新品种权申请176件，已授权90件，授权率达到51%。

三、知识产权行政执法工作开创新局面

2009年，中国知识产权行政执法各相关部门结合自身职能，严格依法执法，开创了知识产权行政执法新局面。

2009年，国家知识产权局先后制定印发了《关于近期知识产权局系统执法工作安排的通知》、《2009年度“雷雨”、“天网”知识产权执法专项行动方案》等文件，对本系统执法工作进行统一部署，指导推进各项重点执法工作的开展。

国家知识产权局全系统深入开展“雷雨”、“天网”行动和各

具地方特色的执法专项行动，大大遏制了群体侵权、反复侵权行为与专利诈骗行为的发生，提高了大型展会等环节知识产权执法与维权工作成效，震慑了违法分子，大大增强了权利人、创新主体和消费者的信心，对营造创新与发展的良好环境发挥了重要作用。

2009年，全国各地知识产权局共受理专利侵权纠纷案件937件，受理其他专利纠纷案件26件。查处假冒他人专利案件30件，查处冒充专利案件548件。共出动执法人员13240人次，检查商业场所6013次，检查商品1322521件，向公安等部门移交案件9件，接受其他部门移交案件9件，跨部门执法协作533次，跨地区执法协作204次。

2009年，全国各级工商行政管理机关查处各类商标违法案件总计51044件，其中商标一般违法案件7448件，商标侵权假冒案件43596件；查处商标涉外案件10461件；共收缴和消除违法商标标识1353.4万件；移送司法机关涉嫌商标犯罪案件92件，犯罪嫌疑人109人。

国家工商行政管理总局高度重视中国企业海外维权工作，针对中国企业商标在有关国家被恶意抢注的情况，通过外交努力，妥善予以解决。

2009年，在开展第五次全国范围的打击网络侵权盗版专项治理行动中，各级版权管理部门通过约谈、网络实时监控、实地检

查、签订责任书等多种形式，加强对在各地地区有影响的互联网企业和网站的监管，有效规范网络版权秩序；版权、公安、电信三部门继续发挥网络专项治理协作机制的作用，坚决打击网络影视、网络文学、网络游戏等领域侵权盗版行为。各地共查办网络侵权案件 541 件，关闭非法网站 362 个，罚款 128 万余元，没收服务器 154 台，向司法机关移送 24 起涉嫌构成刑事犯罪的重大案件。在专项行动中，各地重点打击了存在淫秽色情、非法违禁和侵权盗版内容的网站，查处 40 多个侵权内容与淫秽色情、非法违禁内容并存的非法网站，占到关闭网站总量的 12%。由版权行政管理部门立案查处并移送司法机关依法审判的全国第一起打击大规模网络软件盗版行为的成功刑事案件“番茄花园软件盗版案”在国内外引起积极反响，对网络侵权盗版行为产生了巨大的震慑作用。

国家版权局联合全国“扫黄打非”办公室、文化部和教育部出台《关于加强图书馆著作权保护工作的通知》，切实加强图书馆著作权保护工作，提高了我国图书馆的版权管理和版权保护水平。

面对不断增长的监管业务量，全国海关在有限的人力物力条件下，合理配置执法资源，充分运用风险管理理念，查获进出口侵权货物案件大幅增长。2009 年，全国海关共采取知识产权保护措施 67 051 次，实际扣留侵权嫌疑货物 65 810 批，与 2008 年相比，分别增长了 4.1 倍和 4.9 倍，实际扣留侵权货物 2.8 亿件，价值 4.5

亿元人民币。在海关总署统一部署下，全国海关有针对性地开展执法专项行动，提高执法效率。2009年6~12月，海关总署在全国范围内开展了为期7个月的“邮递和快件渠道保护知识产权专项行动”，针对境内不法分子利用邮递和快件渠道，化整为零，大肆出口侵权商品的行为，监管部门采取有效措施，加强对出境邮递物品和快件的实际监管，对寄往高风险国家和地区的邮包或者快件，适当提高查验比例，在条件允许的情况下实行100%过机查验，简化对侵权邮包和快件的扣留程序以及案件的调查和处理程序。在专项行动期间，全国海关在邮递和快件渠道共扣留侵权物品37918批次，涉及侵权商品261.29万件，货值6166.27万元人民币。同时，全国各级海关采取各种措施加大对国内企业自主知识产权的保护力度，涌现出一批如拱北海关组织开展的保护自主知识产权“春风”行动等富有特色的专项行动

文化部先后印发了《关于开展文化市场集中整治行动的通知》、《关于开展2010年元旦、春节期间文化市场专项整治行动的通知》、《关于加强和改进网络音乐内容审查工作的通知》、《关于加强网络游戏虚拟货币管理工作的通知》等文件，相继部署了净化社会文化环境、动漫市场整治、打击非法网络音乐经营单位、网络游戏虚拟货币市场整治等专项行动，把知识产权保护工作作为重要工作内容进行部署，加大了对各类侵权盗版违法行为的打击

力度。

2009年，全国文化行政部门和文化市场综合执法机构共出动执法人员8419363人次；责令经营单位整改297360家次；受理举报62805件，立案调查72857件，移交案件3692件，办结案件65049件；警告经营单位179923家次，罚款18257万余元，责令停业整顿经营单位37731家次，吊销许可证6632家，没收违法所得2317623元，没收非法物品、工具器械等各类物品共52382645件。

农业部加大打击侵犯品种权行为的力度，通过抓重点、抓督查、抓大案，创新品种权行政执法方法，加强对种子生产基地的监管，从源头上治理侵权假冒行为；加强对重点授权品种的保护，指导甘肃省农业厅在制种基地对全国推广面积最大的玉米品种“郑单958”开展执法，查处侵权行为。各地农业部门积极行动，先后查处了侵犯水稻、甘蓝等作物品种权案件20余起。

四、知识产权司法保护工作迈上新台阶

2009年，全国各级人民法院以高度的大局意识和责任意识，加大知识产权司法保护力度，知识产权案件审判工作迈上新台阶。

知识产权民事案件数量继续保持高速增长的势头。2009年全国地方法院共新收和审结知识产权民事一审案件30626件和30509件，分别比上年增长25.49%和29.73%。其中，新收专利

案件 4 422 件，比上年增长 8.54%；商标案件 6 906 件，比上年增长 10.80%；著作权案件 15 302 件，比上年增长 39.73%；技术合同案件 747 件，比上年增长 19.9%；不正当竞争案件 1 282 件，比上年增长 8.19%，其他知识产权案件 1 967 件，比上年增长 46.79%。全年共审结涉外知识产权民事一审案件 1 361 件，比上年增长 19.49%；审结涉港澳台知识产权民事一审案件 353 件，比上年增长 56.89%。

2009 年，最高人民法院新收和审结知识产权民事案件 243 件和 336 件，其中新收申请再审案件 176 件，审结 263 件。

知识产权民事案件的审判质量和效率不断提高。全国地方法院知识产权民事案件一审结案率从 2008 年的 81.73% 上升到 2009 年的 85.04%，上诉率从 2008 年的 49.32% 下降到 2009 年的 48.82%，再审率从 2008 年的 0.44% 下降到 2009 年的 0.33%。知识产权诉讼调解效果显著，2009 年全国地方法院知识产权民事一审案件平均调解撤诉率达到 61.08%，同比上升 5.22 个百分点。最高人民法院知识产权庭的结案率从 2008 年的 55.93% 上升到 2009 年的 88.64%，提高了 32.71 个百分点。

在知识产权的刑事司法保护方面，人民法院加大对涉及知识产权侵权的犯罪行为的打击力度，严厉打击了各类知识产权犯罪行为。2009 年全国地方法院共审结涉及知识产权侵权的刑事案件

3 660 件，比上年上升 10.04%；判决发生法律效力 5 836 人，比上年上升 8.31%，其中有罪判决 5 832 人，比上年上升 8.28%。在审结案件中，以侵犯知识产权犯罪判决的案件 1 007 件，生效判决人数 1 605 人，同比分别上升 1.1% 和下降 3.14%；以生产、销售伪劣商品犯罪（涉及侵犯知识产权）判处案件 646 件，生效判决人数 1 114 人；以非法经营罪（涉及侵犯知识产权）判处的案件 1 973 件，生效判决人数 3 076 人；以其他犯罪判处的涉及侵犯知识产权的案件 34 件，生效判决人数 41 人。

人民法院认真履行行政审判职责，依法监督和支持行政机关依法行政。2009 年全国地方法院新收和审结一审知识产权行政案件 2 072 件和 1 971 件，分别比上年增长 92.92% 和 90.99%。其中，新收专利案件 688 件，比上年上升 19.03%；商标案件 1 376 件，同比上升 184.3%；著作权案件 4 件，同比下降 42.86%；其他案件 4 件。

2009 年，最高人民法院新收和审结知识产权行政案件 54 件和 56 件。

2009 年，全国检察机关采取切实措施，加大知识产权保护力度。一是依法履行批捕、起诉等职能，重点打击侵犯知识产权犯罪。2009 年，全国检察机关共受理提请批准逮捕涉及侵犯知识产权犯罪案件 1 492 件 2 667 人，比上年同期的 1 407 件 2 565 人分别

上升 6.0% 和 3.9%；批捕 1 256 件 2 119 人，比上年同期的 1 210 件 2 107 人分别上升 3.8% 和 0.5%。共受理移送审查起诉涉及侵犯知识产权犯罪案件 1 931 件 3 518 人，比上年同期的 1 770 件 3 482 人分别上升 9.0% 和 1.0%；起诉 1 535 件 2 695 人，比上年同期的 1 432 件 2 697 人分别上升 7.1% 和下降 0.07%。二是充分发挥法律监督职能，切实纠正对侵犯知识产权犯罪打击不力的现象。加强了对行政执法机关抄送的侵犯知识产权案件《行政处罚决定书》副本的审查工作，对涉嫌侵犯知识产权犯罪的及时提出移送公安机关的建议，并监督公安机关立案侦查；注意发现和掌握侵犯知识产权违法犯罪背后的国家工作人员职务犯罪线索，对于涉嫌构成犯罪的坚决依法查办，2009 年，全国检察机关共监督公安机关立案侦查侵犯知识产权犯罪案件 22 件。检察机关共立案侦查徇私舞弊不移交刑事案件职务犯罪案件 85 件 119 人。

公安机关严厉打击侵犯知识产权犯罪，取得了较好的法律效果和社会效果。2009 年，全国公安机关共破获侵犯知识产权犯罪案件 1 624 起，涉案总金额近 10.38 亿元人民币，抓获犯罪嫌疑人 2 649 人。另有一批侵犯知识产权犯罪案件被按照生产、销售伪劣产品罪和非法经营罪定罪处罚。公安部对侵犯知识产权犯罪始终保持严打高压态势，以“深挖窝点、摧毁网络、缉捕主犯”为督办导向，选择了一批重点目标案件进行全程督导协调，成功打掉一批

长期盘踞各地的造假贩假犯罪团伙和组织网络，有力推进了打击侵犯知识产权犯罪工作深入开展；积极支持上海、山东两地公安机关开展“鹰眼二号”等围绕“世博会”和“全运会”知识产权保护的专项行动，加强对侵犯“全运会”和“世博会”商标标识专用权和街头贩卖假冒盗版商品等犯罪活动的打击防范，成功破获假冒“世博会”吉祥物“海宝”雕塑案等一批大要案件，有力维护了中国的国际形象。会同相关部门针对重点领域组织开展联合执法行动，在与国家版权局、工信部联合开展的“打击网络侵权盗版专项治理行动”中，侦破了一批大要案件，关闭了一批非法网站，掀起了互联网上打击侵权盗版活动的高潮。

五、知识产权执法体制机制建设取得新成绩

2009年，知识产权各相关部门加强协调配合，完善管理，不断深化体制机制建设，取得了新成绩。

2009年，国家知识产权局与有关部门的沟通协作进一步强化，跨部门执法协作机制不断完善。联合国家知识产权战略实施工作部际联席会议28家成员单位共同发布《2009年中国保护知识产权行动计划》；联合商务部等8部委印发《关于加强企业境外参展知识产权工作的通知》；联合公安部、海关总署、国家工商行政管理总局、国家版权局等8部门发出《关于开展2010年世博会知识产权保护专项行动的通知》，通过专项行动，进一步加强世博会知识产

权保护工作；组织公安部等 10 部委及相关地方部门召开“知识产权执法经验交流会”，就中国知识产权执法工作进行深入探讨。

知识产权维权援助公益服务电话“12330”于 2009 年“4·26”期间顺利开通，各知识产权维权援助中心的工作有序开展，成效与影响不断扩大。截至 2009 年底，共批复设立了 61 家维权援助中心。

国家知识产权局启动“5·26”工程与全国专利保护重点联系机制建设工作，促进了本系统执法能力建设，提升了本系统执法工作水平，2009 年，共有 41 个地方知识产权局纳入“5·26”工程，26 家单位被列为全国专利保护重点联系基地。

2009 年，国家版权局扎实推进企业软件正版化工作，取得阶段性成效。大型企业的正版软件使用率明显提高，目前已有两批共 10 399 家企业列入年度完成使用正版软件的阶段性目标，其中，9 254 家企业完成自查自纠，受检企业均已基本完成使用正版软件工作目标；完成了第二批“全国软件正版化工作示范单位”评选工作，评选出 254 家示范单位，较第一批示范单位同比增加 52%。

国家版权局颁布了《创建版权保护示范城市、示范园区、示范单位管理办法》，大力推进版权保护示范工作、发挥示范单位引导作用，促进版权产业发展；批准成立了中国电影著作权协会，形成了包括音乐、音像、文字、摄影、电影等比较完备的著作权集体

管理组织架构，进一步完善集体管理制度建设，促进版权作品的有序传播。

海关总署与公安部继续贯彻两部门于2006年3月联合下发的《关于加强知识产权执法协作的暂行规定》，深化部门执法合作，2009年10月，海关总署与公安部联合举办“海关和公安机关加强知识产权刑事执法协作研讨会”，邀请权利人代表参加，就加强知识产权保护行政执法和刑事执法衔接的有关问题进行研究讨论，并决定进一步加强相互协作配合，形成打击侵权合力。

农业部继续在山东等22个省（自治区、直辖市）开展农业植物品种权执法试点工作，加大执法力度，探索跨区协作执法、重大案件联合办理机制，建立了与工商、公安、知识产权和司法等部门的协作联动机制，共同开展打击侵犯品种权的违法行为，维护了种子市场秩序，保护了品种权人和广大农民利益。

林业局为了加强植物新品种行政执法工作，专门成立了执法管理处，具体负责行政执法工作。

2009年，公安部继续会同国家知识产权局、国家工商行政管理总局、海关总署、国家版权局等知识产权行政执法各相关部门不断深化已有协作机制的落实工作，着重在相互提供专业意见、重大案件指导协调等方面进行有益尝试；积极倡导各地公安机关主动加强与企业的联系沟通，提供侵权预警服务，收集掌握犯罪线索；协

调浙江、贵州、四川等地公安机关试点推行了“服务企业五项措施”、“知识产权刑事保护重点联系企业机制”等措施，及时了解、帮助解决企业在知识产权保护中遇到的困难，得到了企业的支持和拥护。

2009年，人民法院知识产权审判体制和工作机制得到重要发展和完善。专利商标等授权确权案件审理分工问题得到圆满解决。最高人民法院审判委员会于2009年6月22日讨论通过了《最高人民法院关于专利、商标等授权确权类知识产权行政案件审理分工的规定》，将涉及专利、商标、集成电路布图设计和植物新品种等授权确权类知识产权一、二审和再审案件统一交由北京市有关中级人民法院、北京市高级人民法院和最高人民法院知识产权审判庭审理，结束了自2002年以来该类案件由有关法院知识产权审判庭和行政审判庭分别受理的历史。

2009年，由知识产权审判庭统一受理知识产权民事、行政和刑事案件的试点工作（以下简称“三审合一”试点）进一步推开，最高人民法院对地方人民法院开展的“三审合一”试点进行了专题调研，截至12月底，全国已有5个高级人民法院、44个中级人民法院和29个基层人民法院开展了相关试点。

2009年，最高人民法院在继续坚持技术类案件指定管辖制度、严格控制新增专利案件管辖权的中级人民法院数量的同时，适当增

加指定了具有一般知识产权案件管辖权的基层法院，同时根据各地实际需要，积极推动开展跨区管辖工作，知识产权审判管辖制度得到进一步完善。截至 2009 年底，具有专利、植物新品种、集成电路布图设计案件和涉及驰名商标认定案件管辖权的中级法院数量分别达到 75 个、41 个、46 个和 41 个，可以审理一般知识产权民事案件的基层法院已经达到 92 个。

2009 年，为进一步加大对侵犯知识产权犯罪的打击力度，检察机关积极推动“两法衔接”工作，特别是推动各地充分运用高科技手段，建立“网上衔接，信息共享”机制，经过检察机关与有关部门的大力推动，建立“网上衔接，信息共享”机制工作已有了很大进展，有效地促进了对知识产权的刑事司法保护，较好地防止了知识产权保护领域中“以罚代刑”情况的发生。

六、知识产权宣传工作再上新水平

2009 年，知识产权各相关部门围绕自身中心工作，把握“世界知识产权日”等时间节点及有关重要活动，创新手段和形式，提升宣传水平，营造了良好的知识产权保护环境。

国家知识产权局在宣传工作方面紧紧围绕实施知识产权战略、推进知识产权文化建设等工作重点，认真策划、组织和实施了系列宣传活动。

“4·26”世界知识产权日前后，国家知识产权局牵头 24 个部

委开展了以“文化·战略·发展”为主题的“2009年全国知识产权宣传周”活动。期间，联合国家工商行政管理总局、国家版权局和国务院新闻办公室召开“2008年中国知识产权保护状况”新闻发布会；联合公安部、海关总署举办以“挑战·合作·发展”为主题的中国知识产权高层论坛以及以“走近知识产权”为主题的国家知识产权局第四届开放日活动等。

国家知识产权局围绕新中国成立60周年、《国家知识战略纲要》颁布实施一周年等重要时间节点，组织开展有针对性的宣传活动；组织中央及地方主流媒体对“第三届中国专利周”、“第二届知识产权与城市发展论坛”、“全国外商机构保护知识产权座谈会”等重要活动进行宣传报道；策划“知识产权、竞争未来”主题采访活动，与中央电视台合作拍摄知识产权系列电视片——《危险的短板》，反响良好；编辑出版了《影响中国的100个知识产权案例》和《历史的抉择 伟大的实践——国家知识产权局成立30周年纪念文集》。

国家工商行政管理总局围绕商标战略实施，加大宣传，使商标战略意识深入人心。2009年，举办并参与了“2009年全国知识产权宣传周”、“全国工商系统商标战略工作会议”、“中国驰名商标展”、“中国加入马德里商标国际注册体系20周年座谈会”等一系列商标战略宣传活动；2009年11月9~11日，在中国青岛举办了

以“实施商标战略，建设创新型国家”为主题的第三届中国商标节，3 000 余位来自国内外知识产权保护相关政府机构、代理组织以及众多驰名、著名商标拥有企业的代表和有关专家学者，参加了商标节期间的一系列丰富多彩的活动；首次编辑出版了《中国商标战略年度发展报告（2008）》，发布了“2008 年保护国内外企业注册商标专用权典型案例”和“2008 年涉嫌假冒注册商标犯罪案件移送典型案例”，为实施商标战略提供重要商标信息和数据。

国家版权局坚持以 4·26“全国知识产权宣传周”和重大节庆活动为平台，提高宣传活动的层次和水平。围绕 4·26“全国知识产权宣传周”，与中央电视台合作举办主题为“版权在我身边，版权创造财富”的大型文艺晚会；联合全国“扫黄打非”办公室、中央电视台共同启动“绿书签行动 2009——拒绝盗版，从我做起”活动；举办“全国青少年版权保护读书活动暨版权保护知识竞赛”，提高青少年自觉抵制侵权盗版的法律意识；先后在第十六届“北京国际图书博览会”和“第六十一届法兰克福书展”上设立版权宣传服务站，并在“国际图书博览会”和“第二届国际版权贸易博览会”上分别举办了“版权保护在中国”及“版权创造价值，版本见证历史”展览等，展示中国版权保护所取得的成就；首次编辑出版《中国版权年鉴》，系统介绍了中国现代版权制度的发展历程。

全国海关根据当前的经济形势和各自关区的特点，开展了有针

对性的知识产权保护宣传工作。在 2009 年 4·26 “全国知识产权保护宣传周”期间，全国海关重点介绍海关知识产权保护的法律法规，为广大权利人和社会各界答疑解惑，帮助权利人更快地适应修订后的《知识产权海关保护条例实施办法》；发布了《2008 年中国海关知识产权保护状况》白皮书；评选并公布了“2008 年中国海关保护知识产权十佳案例”，取得了良好的社会效应。

农业部积极开展宣传活动，举办“第三届全国农业知识产权论坛”；充分利用电视、广播、报刊杂志、网站等媒体以及人民群众喜闻乐见的形式，主动传播农业知识产权知识，发挥舆论宣传导向作用；普及了农业知识产权相关知识，提升了农业知识产权意识和认知度，优化了创新环境。

2009 年 4 月 23 日，由农业部、国家林业局、国家知识产权局三部委联合举办的“中国实施《植物新品种保护条例》和加入国际植物新品种保护联盟十周年”以及“植物新品种保护国际研讨会”等一系列庆祝活动在北京举行，表彰为植物新品种保护事业做出贡献的先进集体和个人，营造全社会重视和支持植物新品种保护的良好氛围。

国家林业局在“第七届全国花卉博览会”上举办了植物新品种保护展览，通过法律法规宣传、授权品种展示、声像资料播放等多种形式，宣传林业植物新品种保护，强化公众保护意识。

公安部始终坚持将宣传教育作为一项先导性、基础性工作措施，不断丰富宣传的内容和形式。会同国家知识产权局成功举办“中国知识产权高层论坛”，提出“让人民群众成为抵制假冒盗版主力军”的主题口号，受到广泛关注；会同国家知识产权局等部门联合下发通知，要求各地公安机关充分发挥积极性和主动性，加强对本地宣传工作的组织领导。春节前后及4·26“全国知识产权宣传周”期间，各地公安机关组织民警与公众进行面对面的讲解、交流，宣传有关知识产权保护的法律、政策，揭示假冒侵权犯罪活动的巨大危害。

最高人民法院积极发挥典型判例示范效应和指引作用。在4·26“全国知识产权宣传周”期间，发布了“2008年中国知识产权司法保护10大案件”，同时公布了50件典型案例，并首度发布了《最高人民法院知识产权案件年度报告（2008）》；开展了网络著作权、音像制品侵权损害赔偿、反垄断民事诉讼专题调研。

2009年4月9日，最高人民法院发出《关于在全国法院开展知识产权审判“优化自主创新司法环境”年度主题活动的通知》，在全国法院开展了知识产权审判“优化自主创新司法环境”年度主题活动。各地法院纷纷制定活动实施方案，分阶段贯彻落实，在深入贯彻国家知识产权战略，充分发挥知识产权司法保护主导作用；做好专利案件审判工作，着力培育科技创新能力和拓展创新空

间；切实维护商标信誉，推动形成自主品牌；着力改善贸易和投资环境，积极推动对外开放水平的提高等方面，均取得了重要进展。

最高人民检察院重视打击侵犯知识产权犯罪宣传工作。在《检察日报》、正义网及其他媒体上刊登《“两法”衔接，步向体制建设阶段》、《刑事立案监督范围的扩展与触角的延伸》等多篇专题文章，介绍检察机关贯彻落实《国家知识产权战略纲要》的情况及在打击侵犯知识产权违法犯罪行为方面发挥的作用，及时宣传检察机关保护知识产权的工作情况、典型案例等。

七、知识产权培训工作呈现新面貌

2009年，知识产权培训工作继续推进，人才队伍建设呈现新面貌。

国家知识产权局继续大力实施“百千万知识产权人才工程”，建立高素质的知识产权专业队伍；积极探索与地方及高校联合开展知识产权教育培训模式，整合资源，建立知识产权人才培养基地；启动知识产权人才“十二五”专项规划编制工作，制定知识产权人才库工作方案，加强人才队伍建设。

各地知识产权局围绕实施知识产权战略，以行业企业为重点，共举办各类培训项目3000多期，共计培训60万多人次，提高了企事业单位知识产权创造、管理、运用和保护水平和能力。

国家工商行政管理总局加强商标战略培训，制定了《全国工

商系统省市局长商标战略培训班培训方案》，分批对全系统地市以上工商局分管局长进行商标战略全员培训。2009年11月，在上海市举办“全国工商系统商标战略暨世博会标志保护培训班”，培训各级工商干部240人，是全国工商系统商标战线规模最大的一次培训班，也是将商标战略和世博会标志保护两项工作的有机结合和培训方式的有益尝试。

2009年，国家版权局在党政领导干部、版权管理执法人员和企事业管理人员版权培训方面取得新突破。与中组部联合举办了“国家版权工作专题研究班”，对来自全国各地主管版权工作的相关领导进行了培训；针对基层版权执法人员，在山东、江西、内蒙等地举办了三期“全国基层版权执法培训班”，增强了基层执法人员做好工作的信心和能力；2009年6月、9月，企业使用正版软件部际联席会议办公室分别在北京、深圳与国资委联合举办“中央企业软件正版化培训班”，培训各企业软件正版化工作人员近800人。

海关总署高度重视自身能力建设，通过开展理论研究及研讨等途径，在海关系统内培养知识产权保护方面的专家；通过举办“邮递和快件渠道保护知识产权专项行动执法培训班”、“中法知识产权海关保护培训班”的形式，对一线执法关员提供有关培训，提高执法能力，使海关知识产权保护工作日益专业化。

公安部深入开展业务培训教育，大力加强队伍专业化建设。

2009年5月，编辑、印发了《经济犯罪案例选编（三）——侵犯知识产权犯罪》一书，直接面向一线指挥员、侦查员，突出办理侵犯知识产权犯罪案件的侦查流程和证据要求，为各地执法实务和规范化建设提供了有力指导和帮助；7月，在湖北省举办了“全国公安机关知识产权刑事执法培训班”，邀请中央部委、科研院校、国外相关执法机构的专家学者进行授课，全国省级和有关地市级公安机关经侦、治安、网安部门的分管总队长、支队长和业务骨干等130人参加培训，系统学习了现行法律理解与适用、假冒商标识别与认定、侵犯知识产权犯罪案件的侦查指挥等方面的知识。

最高人民法院高度重视对知识产权法官的培养以及专业知识和审判技能的强化训练。2009年以来，修改和充实了知识产权审判专业培训内容，重点加强中、基层法院知识产权审判人员的业务培训。8月，在国家法官学院举办了“全国法院知识产权审判新问题研修班”，对来自中、基层法院的240余名知识产权审判人员进行了培训。

最高人民检察院加强了办理知识产权犯罪案件的培训工作。2009年4月，在江苏省举办了“知识产权培训班暨行政执法与刑事司法衔接工作现场经验交流会”，邀请公安部、海关总署、商务部等单位有关负责同志及专家、学者与会，讲授了侵犯知识产权犯罪的发展趋势及办案中存在的主要问题、对策等，并请有关检察机

关介绍推动建立“网上衔接，信息共享”机制、开展行政执法机关与刑事司法衔接工作特别是移送涉嫌侵犯知识产权犯罪案件的经验，对加大对侵犯知识产权犯罪的打击力度、推动“两法衔接”工作起到了积极作用。2009年6月，举办了“第一期机关干部培训班”，并邀请国家知识产权局有关领导专题讲授了国家知识产权战略的相关情况。

八、知识产权国际合作交流获得新发展

2009年，知识产权领域的双边和多边合作机制进一步完善，合作方式和范围进一步拓展，合作层次进一步提升，国际合作交流获得了新发展。

国家知识产权局继续组织协调相关部门积极参与知识产权国际事务谈判与磋商，深化了与世界知识产权组织等国际组织以及其他国家和地区在知识产权方面的合作，促进了中国知识产权领域国际合作的全面发展。

3月，世界知识产权组织新任总干事高锐出席由世界知识产权组织与国家知识产权局、国家工商行政管理总局和国家版权局合办的“世界知识产权组织跨区域知识产权高级论坛”以及“世界知识产权组织非正式圆桌会议”。期间，王岐山副总理出席了开幕式，温家宝总理亲切会见高锐一行并就知识产权问题作了重要阐述，田力普局长与高锐举行正式会谈，就中国专利金奖、《专利合

作条约》高级巡回研讨班、世博会相关活动等重大双边合作问题达成共识。

6月，在国家知识产权局、国家工商行政管理总局、国家版权局及我驻日内瓦使团的共同关注和积极努力下，中国提名人王彬颖女士在世界知识产权组织协调委员会第六十次会议上成功当选世界知识产权组织副总干事。

10月25日，田力普局长代表中国政府签署了《中国－东盟知识产权领域合作谅解备忘录》，国务院总理温家宝与东盟成员国领导人出席了签字仪式。

2009年，国家工商行政管理总局积极开展一系列商标领域多边及双边交流合作项目。派员参加多次多边会议和双边谈判；加强与美、日、欧等国家、地区商标主管机构的交流合作；与欧盟、韩国、法国、日本和越南等多国或地区商标主管机关签订了以商标领域合作为主要内容的合作谅解备忘录；参加在新加坡举行的“第28次亚太经合组织知识产权专家组会议”；参加国际商标协会第131届年会、中加商标交流会；与日本特许厅在京召开“中日商标局长第七次会谈”；继续推进中欧二期知识产权合作项目，组织实施“中欧商标注册对比研究”。

2009年11月30日至12月1日，国家工商行政管理总局与世界知识产权组织在重庆举办了“亚太地区地理标志研讨会”，交流

探讨利用地理标志促进农村经济发展的经验和做法。来自世界知识产权组织、泰国、南非等国际组织和国家商标主管机关以及中国相关部门的代表和专家共 200 多人参加了会议。会议期间，还举办了“中国农产品商标和地理标志工作成果展览”等活动。

2009 年，国家版权局紧紧围绕坚持对外开放、拓展对外经贸关系这一大局开展版权国际交流与合作工作。妥善处理世界贸易组织有关版权问题，配合有关部门认真做好在世界贸易组织美诉我知识产权争端案的应对工作，圆满完成了世界贸易组织对我第 8 次过渡性审议工作以及两年一次的政策性审议的准备工作。积极拓展与世界知识产权组织的合作领域，在世界知识产权组织有关民间文艺、发展与知识产权、版权与相关权等重大议题上，反映中国政府的有关立场。推进版权多双边合作，积极应对亚太经合组织框架下有关版权问题的挑战；积极参与中美战略与经济对话和中欧知识产权对话，妥善处理中美、中欧、中日等重要版权双边关系；积极参与中挪、中哥自由贸易区谈判和中巴、中俄经贸分委会知识产权工作组会议工作，加强与东盟国家在版权领域的合作。

中国海关不断深化与其他国家和地区海关在知识产权执法情报交换、执法培训、执法经验和人员交流等方面的合作。2009 年 1 月温家宝总理访问欧盟总部期间，《中欧海关关于加强知识产权海关保护合作的行动计划》顺利签署，中欧双方海关成立了知识产

权工作组和专家组，系统地开展双方的执法合作。此外，中国海关巩固与美国海关在《关于加强知识产权边境执法协作的备忘录》方面的成果，继续加强与日本、韩国海关在《零假冒计划》框架内的合作，在开展情报交流、趋势分析、案件协查等工作方面已积累了比较丰富的经验。

2009年，农业部举办了“东盟10国植物新品种保护培训班”，积极参加国际植物新品种保护联盟系列会议和国际规则制定，完成了国际植物新品种保护联盟谷子等测试指南的研制，成功举办了“国际植物新品种保护联盟第43届蔬菜技术工作组会议”、“中德植物新品种保护国际研讨会”，提升了中国在国际植物新品种保护事务中的作用。

2009年4月，农业部、国家林业局、国家知识产权局共同举办了“东亚植物新品种保护论坛第二次会议及植物新品种保护国际研讨会”，来自多个国家及相关国际组织、研究机构、企业的代表参加了此次会议。

2009年，公安部充分利用中国政府与欧盟全面实施知识产权保护合作的机遇，积极加入中欧知识产权合作项目并与欧方制定了该项目下的具体合作实施计划，现已在执法交流、培训教育等方面取得实质性进展；先后与美国国土安全部、联邦调查局，英国打击严重及有组织犯罪调查局，法国内政部等外国执法机构就“夏至

案件”等案件在协助调查取证、通报犯罪线索、提供司法协助等方面进行了务实的交流与合作；在中美、中巴商贸联委会，中美执法联合联络小组，中欧、中日知识产权工作组，中英执法年度会晤等双边机制以及国际刑警组织等多边框架下，多次参加、组织出访活动，接待、参加国外政府部门和执法机构来访、会晤，在对外交往过程中，积极宣传我公安机关保护知识产权工作成就。

2009年，最高人民法院组织召开了知识产权司法保护国际研讨会等会议，组织“欧盟竞争法考察团”出访英、比、德、卢四国，与美国司法部、美国联邦贸易委员会合作举办“中美反垄断民事诉讼问题研讨班”，进一步深化了知识产权审判理论研究，有效促进了裁判标准的细化和统一。

最高人民检察院注重加强与知识产权国际组织和有关国家的交流合作，有力地配合了对外知识产权谈判工作。2009年以来，先后派员参加中欧、中瑞、中巴、中日知识产权工作组，中美商贸联委会，世界贸易组织对华贸易政策审议，世贸组织知识产权理事会对话过渡性审议、中国贸易政策报告等相关工作；积极参与中欧知识产权二期合作项目，应欧洲专利局的邀请，最高人民检察院侦查监督厅和有关省市院侦查监督处长组成中国检察官代表团，赴德国、荷兰、丹麦，对三国有关部门的知识产权保护工作进行了考察学习。

China's Intellectual Property Protection in 2009

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

(This publication is released in both Chinese and English, and in case of inconsistency, the Chinese version shall prevail in the event of discrepancy between the two said versions.)

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China's Intellectual Property Protection in 2009

The year of 2009 was the key year to fully initiate the implementation of the national intellectual property (IP) strategy of China. Closely focusing on the central task of economic construction, the Chinese government made great efforts to withstand the impact of the international financial crisis, strengthened the implementation of the national IP strategy, promoted various IP protection work, and scored periodical achievements. The IP legislation work achieved new development, which further improved the IP system; the capabilities of examination and registration of intellectual property rights (IPRs) were prominently enhanced with new breakthroughs; the IP administrative enforcement was promoted and the trans-departmental cooperation was enhanced; the key role of judicial enforcement in IP protection was strengthened with various work entering a new stage; the construction of IP related mechanism and system was further promoted and improved; the IP publicity work was effective and reached a new level; the IP training work continued its progress and displayed a new outlook; and the IP international exchange and cooperation was further developed.

I. New Progress Achieved in the IP Legislation Work

In 2009, a series of IP laws, regulations and rules were formulated and revised according to the practical needs. The IP legislation work in China made new achievements.

On October 1st, 2009, *the Patent Law* after the 3rd revision was implemented. The revised patent law prescribed stricter conditions to patent granting, improved the mechanism of compulsory license, strengthened patent protection, all of which are conducive for China to become an innovative nation. On December 30th, 2009, *the Decision on the Amendments of the Implementing Regulations of the Patent Law of the People's Republic of China(draft)* was reviewed and passed. The amended *Implementing Regulations of the Patent Law* would come into force on February 1st, 2010. *The Measures on Patent Administrative Enforcement, the Measures on Implementing Compulsory Licenses of Patents*, and other relevant regulations of relevant agencies were promulgated or amended following the revision of the patent law.

In 2009, the third revision of *the Trademark Law* continued to be pushed forward. The revised version of *the Trademark Law* (for review) was submitted to the State Council. Meanwhile, the formulation and amendments of other related

regulations and rules including *the Implementing Regulations of the Trademark Law*, *the Regulations on Trademark Commissioning*, were carried out accordingly. *The Rules on the Certification of Well-Known Trademarks by the State Administration for Industry and Commerce*, and *the Regulating Opinions on the Cases related to the Certification of Well-Known Trademarks Handled by the Trademark Office under the State Administration for Industry and Commerce* were formulated, which further improved the review and adjudication system of well-known trademarks.

In 2009, the revision work of *the Copyright Law* started. The National Copyright Administration of China (NACA) amended and issued *the Implementing Measures on Copyright Administrative Punishment*, and actively promoted the draft work on *the Payment Standards on the Statutory Use of Teaching Materials*, *the Measures on the Registration of Copyright Pledge Contracts*, *the Administration Measures on the Registration and Recording of Copyright Contracts*, and other rules and regulating documents.

On November 10th, 2009, the State Council promulgated *the Provisional Measures on Payments for Playing Recording Products at Radio and TV Broadcasting Stations*. The Measures took the interests of right owners, users and other stakeholders into consideration, solved the long-time problem for lacking payment standards in using recording products by radio and TV broadcasting organizations,

and would come into force on January 1st, 2010.

In 2009, to simplify the IP protection procedure at customs and further clarify the rights and obligations of right owners, senders and receivers of cargoes, the General Administration of Customs (GAC) accomplished the amendment of *the Implementing Measures of the Regulations on the Custom Protection of IPRs* after widely soliciting the opinions of right owners and local customs. *The Measures* was promulgated on March 3rd, 2009 and came into force on July 1st.

On December 26th, 2009, the Standing Committee of the National People's Congress reviewed and passed *the Infringement Liability Law of the People's Republic of China*, which clearly included copyright, patents, and trademarks in the protection scope of legal rights of civil entities, supplementing and improving the legal protection system of IPRs.

In 2009, the Supreme People's Court (SPC) promulgated several judicial interpretations and regulating documents, which further clarified the trial rules on related cases. On April 21st, 2009, SPC promulgated *the Opinions on Several Issues concerning Intellectual Property Trials Serving the Overall Objective under the Current Economic Situation*, addressing that: "at the current economic situation, the IP judicial protection can only be strengthened and improved, and cannot be weakened or loosened", and clarified and improved a series of IP judicial policies, which brought wide and positive effects in the country. On April 23rd, SPC prom-

ulgated *the Interpretation on the Application of Laws related to Well-Known Trademark Protection on the Trial of Civil Cases Involving Trademark Infringement* by SPC, which further regulated the judicial determination and protection of well-know trademarks, and clarified the conditions and scope of judicial determination of well-known trademarks. On December 28th, SPC promulgated *the Interpretation on the Application of Laws on the Trial of Patent Disputes* by SPC, which regulated interpretation rule of patent claims, clearly identified the protection scope of patent right and clarified the judging criteria for patent infringement. The promulgation of the Interpretation has an important guidance meaning in supporting the appropriate implementation of the revised patent law, realizing a good trial of patent cases, and actively promoting innovation.

II. IPR Examination and Registration Advanced Steadily with New Breakthroughs

In 2009, there were impressive breakthroughs in IPR examination and registration despite the financial crisis.

In 2009, patent applications maintained continuous and fast growth. State Intellectual Property Office of the People's Republic of China (SIPO) accepted 976,686 patent applications in 2009, up 17.9% 877,611 of which were from

home, representing 89.9% of the total and up 22.4% ; 99,075 of which were from abroad, representing 10.1% of the total and the year-on-year decrease of 10.9% .

By the end of 2009, China accepted cumulative 5,822,661 patent applications, 4,898,473 of which were from home, representing 84.1% ; 924,188 of which were from abroad, representing 15.9% .

In 2009, SIPO granted 581,992 patents, a year-on-year increase of 41.2% ; among which, 501,786 were granted to domestic applications, representing 86.2% of the total and a year-on-year increase of 42.4% ; 80,206 were granted to foreign applications, representing 13.8% of the total and a year-on-year increase of 34.6% . Invention patents granted to domestic applications accounted for 50.9% , a year-on-year increase of 1.2% . This class of patent overtook their foreign counterparts for the first time.

By the end of 2009, SIPO had granted accumulated 3,083,260 patents in total, 2,644,571 of which were domestic applications and 438,689 were foreign applications, representing 85.8% and 14.2% of the total respectively.

In 2009, 9,195 requests for reexamination were accepted, up 4,835 or 111% . As many as 6,697 requests for reexamination were concluded. 2,247 requests for invalidation were accepted, up 209 or 10% . As many as 2,310 requests for invalidation were concluded.

SIPO enhanced its capability in handling the application of three types of patents with a rapid growth of closed examination cases in 2009. 194,850 invention patents were examined substantively, a year-on-year increase of 32.7% ; 262,648 utility model patents were examined, a year-on-year increase of 28.3% ; 388,905 industrial design patents were examined, a remarkable increase of 80.1% .

The duration of patent examination granting, and reexamination invalidation remained steady. No patent applications were in pendency during the flow procedure. The duration of substantive examination for invention patent was 25.8 months. The duration of examination for utility model were shorted to 5.8 months and the said duration for industrial design were reduced even greater from 9.5 months to 5.5 months. The duration of reexamination invalidation was 7.4 months. The indexes about accuracy, consistency, and timeliness all reached historical peak.

In 2009, SIPO accepted 817 applications for registration of layout designs of integrated circuits, and 655 registrations were announced with certificates. Since the implementation of the Regulation on Protection of Layout Designs of Integrated Circuits on October 1st, 2001, SIPO had accepted a total of 3,368 applications for registration, and 2,957 registrations were announced with certificates.

In 2009, SIPO as the PCT receiving office, had totally received 8,000 international applications, a year-on-year increase of 31.6% . The international applica-

tions totaled 32, 881 since 1994.

In 2009, Trademark Office (TMO) under the State Administration for Industry & Commerce of the People's Republic of China (SAIC) accelerated the trademark examination which exceeded one million. 2009 witnessed the historical number of trademark applications—over 800, 000.

TMO accepted 830, 447 trademark applications, a year-on-year increase of 18. 96% , which overtook the historical record of 766, 300 applications in 2006 by 64, 200 and ranked first in the world in eight consecutive years. 1, 414, 736 trademark applications in total were examined, a year-on-year increase of 88. 69% . That number equaled to the total volume of five years before the Office introduced accelerated examination. The duration of examination was 17 months. There were 39, 436 applications for opposition, a year-on-year increase of 56. 24% ; 25, 020 applications for opposition were closed, a year-on-year increase of 127. 60% . By the end of 2009, China ranked first in the world with a total number of 3, 404, 534 valid registered trademarks.

In 2009, China accepted 13, 267 territorial extension applications of Madrid international registration for trademarks from International Bureau of WIPO (one trademark covering multiple classes) and Chinese nationals filed 1, 346 applications of Madrid international registration for trademarks through TMO (one trademark covering multiple classes). By the end of 2009, the International Bureau of

WIPO remained 142, 830 valid trademarks of Madrid international registration designating China for territorial extension (one trademark covering multiple classes), which made China the No. 1 for five consecutive years. The International Bureau of WIPO accepted 9, 721 applications of Madrid international registrations for trademarks (one trademark covering multiple classes) from Chinese enterprises through Trademark Office which made China rank top 10 in the world and top 1 in developing countries for five consecutive years.

In the meantime, TMO enhanced the registration and protection of trademark and geographical indication for agriculture produces. In 2009, TMO registered 142, 000 agricultural product trademarks with the total number of 749, 800 and 240 geographical indications with the total number of 771. In particular, the total number of registered geographical indications during the past two years was 1.56 times that from the past fifteen years. TMO also reviewed and approved 751 special symbols and 17 special symbols for extension, registered 3 official symbols, changed the recordation of 177 Olympic symbols from the Organizing Committee of the 29th Olympic Games to International Olympic Committee, and recorded 19 symbols for World Expo.

In 2009, TMO accepted 55, 804 applications for trademark renewal, among which 58, 731 were settled; 96, 576 applications for trademark registration change, among which 106, 058 were handled; 64, 517 applications for trademark transfer,

among which 66,808 were dealt with; 17,447 applications for recording of trademark licensing contract, among which 17,733 were finished.

In 2009, NCAC improved fundamental work delivered better public service, and significantly enhanced the efficiency in copyright registration and recording. In particular, the registration of computer software soared since the campaign of promoting copyrighted software initiated. In 2009, totally 70,965 pieces of various kinds of computer software were registered, up 49.75% as compared with that of 2008. The total revenue from software sales, which were 480 billion Yuan in 2006, amounted to nearly 900 billion Yuan by the end of 2009. The registrations of software copyright totaled 67,912, a year-on-year increase of 48.6%, accounting for 95.7% of the overall registered software or the volume of the year 2007 and 2008. Registrations of copyright transfer contract and exclusive licensing contract for software reached 182, a year-on-year increase of 26.38%; changes or addition of information to the existing registrations were 2,752, a year-on-year increase of 91.64%; registrations of pledging contract for computer software copyright was 119, a year-on-year increase of 9.17%.

In 2009, the recordation of customs IP protection by IP right holders at GAC remained fast growth. The GAC had examined and approved 3,002 applications for recordation in 2009, among which 731 were patent, 2,146 were trademark exclusive right, 125 were copyright. It was the first time for GAC to exceed 3,000

pieces of recordation within a year. Since the implementation of customs recordation on IP in 1995, GAC had totally examined and approved 19,038 IP recordation applications. In the mean time, *IP Recordation Application System for Customs Protection* was in the process of system upgrading.

In 2009, the Ministry of Agriculture (MOA) and State Forestry Administration (SFA) continued to promote the protection of new varieties of plants. MOA accepted 992 domestic and foreign applications for new varieties, which was an increase of 14% compared with 868 applications in 2008, and established a new record among those applications, 104 were from foreign applicants, an increase of 12% compared with the number in 2008. The annual applications ranked No. 4 among the members of International Union for the Protection of New Varieties of Plants, after EU, U. S, and Japan. The examination and granting efficiency were significantly enhanced via improved examination and testing procedure for applications of new plant varieties. A total number of 1,119 new varieties of plants were granted, an increase of 145% from 2008. By the end of December 31st, 2009, the applications for new varieties of plants had reached accumulative total of 6,555, among which 3,407 were closed and 2,595 were granted. MOA also accepted and published 244 application for geographical indications registrations of agricultural produces and issued 185 certificates for the produces. By the end of 2009, SFA accepted 176 applications for new varieties of plants and granted 90 cases, repre-

senting 51% of the total applications.

III. A New Prospect Opened up in the IP Administrative Enforcement

In 2009, Chinese IP administrative enforcement authorities opened up a new prospect in administrative protection of IPRs through strict enforcement according to laws and in line with their respective administrative functions.

In 2009, SIPO formulated and issued consecutively *the Circular on the Arrangement of Recent Enforcement Activities among Intellectual Property Offices across the Nation*, *the Action Plan of “Thunderstorm”* and *“Skynet” Special IP Enforcement Campaigns in 2009*, and other documents, so as to carry out a unified deployment of the enforcement work and promote the implementation of various important enforcement activities.

The thorough implementation of “Thunderstorm”, “Skynet”, and other local IP enforcement campaigns greatly contained group infringement, repeated infringement, and patent fraud activities, improved the effectiveness of IP enforcement and protection in large exhibitions, frightened IP violators, and heightened the confidence of right owners, innovators, and consumers, which played an important role in creating a sound environment for innovation and development.

In 2009, local IP administrations across the country received a total of 937 pa-

tent disputes concerning infringement and 26 of other types. 30 cases related to counterfeiting patents and 548 cases regarding passing-off patents were investigated and dealt with. In those actions, 13,240 person times of enforcement officials were dispatched; 6,013 business premises were inspected; and 1,322,521 pieces of goods were checked; a total of 9 cases were transferred to public security departments and 9 cases from other authorities were received; 533 trans-department joint enforcement actions were organized and 204 cross-region enforcement actions were launched.

In 2009, the Administrations for Industry and Commerce (AICs) at all levels across China investigated 51,044 cases of trademark violations, among which 7,448 were general violations of trademark, and 43,596 were related to trademark infringement and counterfeiting, 10,461 foreign related trademark cases were investigated and handled. The AICs seized and removed 13.534 million illegal trademark labels, handed over 92 cases and 109 suspects to judicial authorities for suspected trademark criminal violations.

SAIC attached great importance to the overseas IP protection for Chinese enterprises. SAIC appropriately handled some cases regarding malicious registration of Chinese trademarks abroad through diplomatic efforts.

In 2009, the copyright administrations at all levels strengthened the supervision on some influential internet companies and websites in various regions during the

Fifth National Special Campaigns of Combating Internet Infringement and Piracy. The copyright administrations effectively regulated the internet copyright order on through appointed meetings, real-time monitor, on-site inspection, signing liability documents, and other measures. Authorities in charge of copyright, public security, and telecommunications continued their cooperative mechanism on internet copyright protection by severely cracking down the dissemination of pirated videos, literature works, and games on the internet. Authorities across the country handled 541 internet infringement cases, shut down 362 illegal websites, imposed a total fine of 1.28 million Yuan, confiscated 154 servers, and transferred 24 cases to judicial authorities for suspected criminal violations. During the special campaigns, local authorities severely punished the websites containing pornographic, piracy and other illegal contents, and over 40 illegal website containing those information were investigated and prosecuted, accounting for 12% of the total number of closed websites. The “Tomato-Garden” software piracy case, which was investigated under the initiation of a copyright administration and transferred to judicial authorities later, was the first successful criminal case in cracking down large-scale internet piracy activities in China and received positive feedback from both China and overseas regions, It greatly deterred pirated activities on the internet.

NCAC together with the National Anti-Piracy and Pornography Office, the Ministry of Culture, and the Ministry of Education promulgated *the Circular on*

Strengthening the Copyright Protection Work in Libraries to improve the copyright administration and protection in libraries in China.

Facing the continuous increase of supervising business, cases concerning infringing cargoes during import and export uncovered by the customs across the country increased rapidly under the condition of limited human and material resources through reasonably reallocating enforcement resources and fully exploiting risk management theories. In 2009, the customs across the country organized a total of 67,051 actions of IPR protection, actually detained 65,810 batches of cargoes suspicious of infringement, increased by 4.1 times and 4.9 times comparing with the year of 2008 respectively, with a total value of 450 million Yuan and 280 million pieces of goods. Under the unified arrangement by GAC, the customs nationwide carried out special enforcement campaigns with clear targets and improved enforcement efficiency. From June to December, 2009, GAC initiated the special IP protection action against infringement activities through mailing and express-mail system across the country, which lasted 7 months. Considering that large volume of infringing goods exported abroad through the mailing and express mail system, the supervising authorities took effective measures to strengthen the actual monitor of goods mailed or express-mailed abroad, especially of those mailed to high-risk countries and regions, by raising their inspection ratio, realizing 100% computerized machine check when the condition permitted, and simplifying the procedure

of detaining infringing mailbags and express mails, and their investigation and prosecution process. During the period of the special actions, customs across China seized 37,918 batches of infringing goods, with a total value of 61,662,700 Yuan and 2,612,900 pieces involved, through the mailing and express-mail system. Meanwhile, the customs at various levels took all kinds of measures to enhance the protection over the IPRs independently owned by domestic enterprises, such as the “Spring Wind” special campaign organized by the Gongbei Customs in self-dependent IP protection and some other special campaigns.

The Ministry of Culture successively issued *the Circular of Carrying out Rectification Actions towards the Culture Market*, *the Circular of Organizing Special Rectification Actions towards the Culture Market During the New Year and Spring Festival Period in 2010*, *the Circular of Improving and Strengthening the Examination of Music Contents on the Internet*, *the Circular of Strengthening the Administration on Internet Games and Fictitious Money*, and other documents, through which special actions were carried out to purify the social and culture environment, rectify the cartoon market, crack down illegal music providers on the internet, and regulate the fictitious monetary market of internet games. IP protection was regarded as one of the important parts in the above special actions, which enhanced the fight against various infringement and piracy activities.

In 2009, culture administrations and general enforcement authorities of culture

market in the whole country dispatched a total of 8,419,363 person times of enforcement officials, ordered 297,360 businesses to rectify their wrong doings, received 62,805 reports, initiated 72,857 investigations, transferred 3,692 cases to other authorities, finished 65,049 cases, warned 179,923 businesses, imposed a total fine of 182,570,000 Yuan, shut down 37,731 businesses to rectify their wrong doings, withdrew 6,632 license permits, confiscated 2,317,623 Yuan of illegal income, and seized a total of 52,382,645 pieces of illegal machines, tools and other goods.

MOA enhanced cracking down of infringement activities of plant varieties through emphasizing the supervision of important cases. MOA made innovation on the administrative enforcement methods regarding protection of new varieties, strengthened the supervision of seed-production bases, and prevented infringement and counterfeiting activities from the source. MOA strengthened protection of important varieties, directed the Bureau of Agriculture of Gansu Province to investigate infringement activities and carry out enforcement activities in seed-production bases to protect the new variety of “Zhengdan 958” Corn, which had been promoted to the whole country. All agriculture authorities took active actions to investigate more than 20 cases infringing new varieties of rice, broccoli and other agriculture products.

IV. A New Stage Entered in the Judicial Protection of IPRs

In 2009, people's courts at all levels across China strengthened judicial protection of IPRs and made new achievements in trial of IPR cases with a strong sense of responsibility.

The number of IPR civil cases continued its rapid increase. In 2009, courts at various levels received 30,626 first-instance IPR civil cases and concluded 30,509 ones, up 25.49% and 29.73% respectively. Among them, there were 4,422 patent cases, up 8.54%; 6,906 trademark cases, up 10.80%; 15,302 copyright cases, up 39.73%; 747 technology contract cases, up 19.9%; 1,282 unfair competition cases, up 8.19%; 1,967 other types of IPR cases, up 46.79%. The courts concluded 1,361 first-instance IPR civil cases involving foreign parties, up 19.49%; 353 first-instance IPR civil cases involving parties from Hong Kong, Macao and Taiwan, up 56.89%.

In 2009, SPC received 243 IPR civil cases and concluded 336 ones, among which 176 second-instance IPR civil cases were received and 263 were concluded.

The quality and efficiency regarding the trial of IPR civil cases were continuously improved. The rate of first-instance IPR civil cases handled and concluded by local courts across China increased from 81.73% in 2008 to 85.04% in 2009.

The rate of appeal dropped from 49.32% in 2008 to 48.82% in 2009, while the rate of retrial dropped from 0.44% in 2008 to 0.33% in 2009. Mediation of IPR lawsuits achieved great results. In 2009, the average withdrawing rate of first-in-stance IPR civil cases through mediation by local courts reached 61.08% , up 5.22% comparing with the year of 2008. The rate of cases concluded by the IP tribunal of the Supreme People's Court increased from 55.93% in 2008 to 88.64% in 2009, up 32.71% .

In terms of criminal justice protection of IPRs, courts enhanced protection against criminal violations of IPRs and severely cracked down all kinds of IPR criminal activities. In 2009, local courts concluded 3,660 IPR criminal cases, up 10.04% comparing with the year of 2008, and sentenced 5,836 suspects, up 8.31% , 5,832 of which were found guilty, up 8.28% . Among the cases concluded, 1,007 were sentenced on the account of criminal violation of IPRs, among which 1,605 suspects were found guilty, up 1.1% and down 3.14% respectively; 646 cases were sentenced on the account of manufacture and distribution of goods with inferior quality (involving IPR violation), among which 1,114 suspects were found guilty; 1,973 cases were sentenced on the account of illegal business operation (involving IPR violation), among which 3,076 suspects were found guilty; 34 cases were sentenced on the account of other crimes (involving IPR violation), among which 41 suspects were found guilty.

Courts also upheld its duty of trial of administrative cases, supervised and supported the enforcement carried out by administrative authorities according to the law. In 2009, local courts received 2,072 first-instance IPR administrative cases and concluded 1,971 ones, up 92.92% and 90.99% respectively. Among them, there were 688 patent cases, up 19.03% ; 1,376 trademark cases, up 184.3% ; 4 copyright cases, down 42.86% ; and 4 other types of cases.

In 2009, SPC accepted 54 and concluded 56 IPR administrative cases.

In 2009, the procuratorate organs took effective measures to enhance IPR protection. First, the procuratorate organs fulfilled the function of approval of arrest and prosecution according to the law and fight against IP criminal violations. In 2009, the procuratorate organs nationwide accepted 1,492 arrest approval applications related to IP criminal cases with 2,667 suspects involved in, up 6.0% and 3.9% respectively, comparing with 1,407 applications in which 2,565 suspects were involved in 2008; and approved arrest of 2,119 suspects in 1,256 cases, up 0.5% and 3.8% respectively, comparing with 2,107 suspects involved in 1,210 cases in 2008. In 2009, the procuratorate organs nationwide accepted 1,931 prosecution applications related to IP criminal cases transferred by other administrative authorities with 3,518 suspects involved in, up 9.0% and 1.0% respectively, comparing with 1,770 applications in which 3,482 suspects were involved in 2008, and prosecuted 2,695 suspects in 1,535 cases, down 0.07% and up 7.1%

respectively, comparing with 2,697 suspects involved in 1,432 cases in 2008. Second, the procuratorate organs gave a full play of legal supervision so as to correct some ineffective enforcement actions in combating IPR criminal violations. The procuratorate organs strengthened the examination on the copies of *Decisions on Administrative Punishment* related to IPR cases transferred by administrative enforcement authorities, gave suggestions on transferring cases related to IPR criminal violations to public security departments on time, and supervised public security departments during case investigation. The procuratorate organs paid attention to finding the clues of duty crime in malfeasance of government employees relating to IPR criminal crime and seriously prosecuted those suspicious criminals according to laws. In 2009, the procuratorate organs across the country supervised 22 cases related to IPR criminal violations investigated by public security departments. The procuratorate organs investigated 85 cases for engaging in duty crime for personal gains by not transferring criminal cases with 119 suspects involved in.

The public security departments severely combated IPR crimes and achieved good social and legal effects. In 2009, public security departments nationwide uncovered 1,624 IPR criminal cases involved 1.038 billion Yuan and arrested 2,649 criminal suspects. Some other IPR criminal cases were sentenced and punished on the account of manufacture and distribution of fake or inferior quality goods and illegal business operation. The Ministry of Public Security kept high pressure on

combating IPR infringement crimes, selected some important cases for whole-process supervision and coordination under the investigation guidance of “searching for hidden places of criminals, destroying their network, and arresting heads of crimes”, and successfully cracked down some long-existing criminal groups and organizations in making and selling counterfeits in various regions, so as to further promote the development of combating IPR crimes. The public security departments positively supported the special enforcement campaigns, such as “Eagle Eye No. 2 Action”, in protecting IPRs related to “the World Expo 2010” and “the National Game”, carried out by the public security departments in Shanghai and Shandong, enhanced prevention and fight against infringement of marks for “the National Game” and “the World Expo”, selling counterfeited and pirated goods at streets, and other crimes, and successfully uncovered a batch of important cases, such as the case of counterfeited sculptures of “the World Expo” mascot “HaiBao”, so as to positively maintain China’s international image. The public security departments carried out joint enforcement actions in key areas together with other related agencies. In the “special rectification campaign to crack down network infringement and piracy” jointly carried out with the National Copyright Administration and the Ministry of Industry and Information Technology, a batch of important cases were uncovered and a group of illegal websites were shut down, so as to push the anti-piracy activities on the internet to a new height.

V. New Achievements Made in the Construction of IP Enforcement Mechanism

In 2009, the IPR-related agencies made new achievements by strengthening coordination, improving administration, and continuously promoting mechanism construction.

In 2009, SIPO further strengthened communication and cooperation with related agencies and continuously improved the trans-agency enforcement cooperation mechanism. SIPO, jointly with 28 member agencies under the trans-ministerial joint meeting mechanism for implementing the national intellectual property strategy, issued *the China's Action Plan on Intellectual Property Protection 2009*; SIPO, jointly with 8 agencies such as the Ministry of Commerce, issued *the Circular on Strengthening IPR Protection Work in Organizing Businesses to Attend Overseas Exhibitions*; SIPO, jointly with 8 agencies such as the Ministry of Public Security (MPS), GAC, SAIC, NCAC, issued *the Circular on Organizing Special Campaigns for IPR Protection in the 2010 World Expo*, to further strengthen the IPR protection for the World Expo through such special campaigns; SIPO, cooperated with 10 agencies including MPS and local government departments, organized the Seminar on IPR Enforcement Experiences Exchange and made in-depth discus-

sions on the IPR enforcement in China.

The IPR assistance service telephone line “12330” was put through on April 26th, 2009. Local IP protection and assistance centers carried out their work in an effective order and continuously expanded their influence. By the end of 2009, a total of 61 IPR assistance centers were approved to be established.

SIPO initiated the “5 · 26” project and the establishment of the national patent protection liaison system so as to promote the enforcement capability building of the IP offices across the country and improve their enforcement skills. In 2009, a total of 41 local IP offices were included in the “5 · 26” project and 26 units were listed as the important national patent protection liaison bases.

In 2009, NCAC promoted the use of legal software in enterprises and made successful achievements. The rate of using legal software in large-scale enterprises increased obviously. A total of 10,399 enterprises in two groups have been included in the annual checking plan of using legal software, among which 9,254 enterprises finished self check and correction, and almost all the enterprises under inspection have accomplished the target of using legal software. NCAC completed the selection of the second group of “the National Model Units for Using Legal Software”, and selected 254 model units, increased by 52% comparing with the number of the first group.

NCAC promulgated *the Administration Measures on Establishing Copyright Pro-*

tection Model Cities, Science Parks, and Units, forcefully promoted copyright protection demonstration work, gave a full play of the guidance effect of demonstration units, so as to promote the development of copyright industry. NCAC approved to establish the Chinese Film Copyright Association, setting up a comparatively complete copyright collective management framework consisting of music, audio-video products, literature, photography, film and etc. , further improved the collective management system, and promoted the orderly dissemination of copyrighted works.

GAC and MPS continued to implement *the Provisional Regulations on Strengthening IPR Enforcement Cooperation* jointly issued in March 2006 to deepen the trans-agency enforcement cooperation. In October 2009, GAC and MPS co-organized the seminar on strengthening IPR Criminal Enforcement Cooperation. Participants, including right owners discussed many issues such as how to strengthen the linkages between IP administrative and criminal enforcement and decided to further enhance coordination and cooperation to form the joint force in combating infringement activities.

MOA continued to carry out enforcement pilot work regarding new varieties of agricultural plants in 22 provinces (autonomous regions and municipalities) such as Shandong and enhanced enforcement strength. By exploring the mechanism of trans-regional enforcement and cooperation in dealing with important cases, the

Ministry of Agriculture established cooperation mechanism with administrations for industry and commerce, public security departments, IP offices, and judicial departments to jointly combat illegal activities violating new plant varieties, safeguarded the market order on seeds, and protected the legal rights of new plant variety holders and the interests of farmers.

SFA established Enforcement Administration Division to carry out specific administrative enforcement work in order to strengthen the administrative enforcement on the protection of new varieties of plants.

In 2009, MPS continued to deepen the cooperation with IP administrative enforcement agencies, such as SIPO, SAIC, GAC, NCAC , and paid special attention to exchanging information on providing expert opinions and guidance on important cases. MPS encouraged local public security bureaus to actively strengthen communications with enterprises, provide infringement pre-warning services, and collect and master criminal clues. MPS coordinated with public security bureaus in local provinces, such as Zhejiang, Guizhou, Sichuan provinces to promote the “Five Measures to Serve Enterprises”, the “Liaison Mechanism with Important Enterprises on IP Criminal Protection” and other measures, to understand the difficulties of enterprises in IPR protection and provide assistance to them, which received support and praise from enterprises.

In 2009, the IPR trial system and working mechanism of people’s courts were

further developed and improved. The problem of work division in the trial of patent, trademark and other authorization and ownership determination cases was successfully solved. The Judicial Committee of SPC discussed and adopted *the Provisions of the Supreme People's Court on the Work Division in the Trial of Administrative Intellectual Property Cases Involving Patent, Trademark and Other Authorization and Ownership Determination Issues* on June 22, 2009. The Provisions authorized the power to hear the administrative intellectual property cases involving patent, trademark, layout designs of integrated circuits, new varieties of plants and other authorization and ownership determination issues for the first or second instance or review, to the intellectual property tribunals of the relevant intermediate people's court of Beijing, the Higher People's Court of Beijing and SPC, concluding the history of such cases respectively handled by the IP tribunals and administrative tribunals of relevant courts since 2002.

In 2009, the pilot work of unifying the trial of IP civil, administrative and criminal cases under the IP tribunals (three types of IPR cases under one tribunal) was further carried out. SPC made special research on the pilot of unifying the three types of IPR cases under one tribunal. By the end of December 2009, 5 higher people's courts, 44 intermediate people's courts, and 29 primary people's courts had carried out such pilots.

In 2009, SPC continued to strictly control the newly-added number of intermedi-

ate courts with patent jurisdiction under the judicial designation system of technical cases. Meanwhile, SPC added some designated primary courts to have the jurisdiction over general IPR cases, promoted trans-regional jurisdiction work according to the local needs, and further improved the jurisdiction system on IP trials. By the end of 2009, the number of intermediate courts with jurisdiction over the authorization and ownership determination on patent, new varieties of plants, layout designs of integrated circuits, and well-known trademarks had reached 75, 41, 46, and 41 respectively, and the number of primary courts with jurisdiction over general IPR civil cases had reached 92.

In 2009, to further enhance the fight against IPR criminal violations, procuratorate organs actively promoted the linkages between administrative and criminal enforcement, especially the establishment of the “network linking and information sharing” mechanism among regions by fully taking advantage of high technologies. Through the efforts of procuratorial organs and related agencies, the “network linking and information sharing” mechanism made great achievements, effectively promoted the criminal judicial protection of IPRs, prevented the phenomenon of “criminal punishment replaced by fines” in the IPR protection.

VI. IP Publicity Reached to a Higher Level

2009 witnessed the effective publicity and the development of favorable climate for IP protection by IP departments which centered on key programs and take advantage of important events like “World IP Day” with innovative measures and forms.

Focusing on the primary tasks like implementing national IP strategy and cultivating IP culture, SIPO elaborately organizes and launched a series of publicity programs.

Collaborating with 24 ministries and administrations, SIPO led the 2009 National IPR Publicity Week themed with “Culture, Strategy, Development” shortly before the World IP Day. Moreover, SIPO along with SAIC, NCAC held the 2008 Press Conference on IP Protection in China. In addition, SIPO, MPS, and GAC jointly held the China High-level Forum on Intellectual Property with the theme of Challenge, Cooperation, Development and had its fourth Open Day to the public with the theme of “Approaching IP”.

Centering on the 60th anniversary of P. R. China and the 1st anniversary of the release of the Outline of the National Intellectual Property Strategy, SIPO launched as series of focused publicity activities: inviting central and local mainstream

media to report key events like the 3rd China Patent Week, 2nd Forum on IP and City Development, and IP Protection Symposium of Foreign Invested Enterprises; blueprinting the theme interview of “IP and Future Competition” and the filming of series of IP TV program *Dangerous Shortcomings* with CCTV which received favorable public feedback; compiling 100 *Influential IP Cases in China* and *Historical Decision And Great Practice—Commemorative Essay Collection of 30th Anniversary of SIPO*.

SAIC launched extensive publicity activities to raise the public awareness of trademark strategy in line with the implementation of trademark strategy. In 2009, it hosted and participated in a series of publicity activities for trademark strategy like the National IPR Publicity Week, National Trademark Strategy Meeting for Industry and Commerce Administrations Nationwide, China Well-known Trademark Show, Symposium on 20th Anniversary of China’s Entry into Madrid International Trademark Registration System. From November 9-11, 2009, SAIC hosted the 3rd China Trademark Festival with the theme of “implement trademark strategy for the development of innovative country”. Over 3,000 representatives and scholars from international and Chinese IP protection departments, agencies, and businesses that owned well-known and famous trademarks participated in various events during the festival. It also compiled the first *Annual Development Report on China’s Trademark Strategy* (2008), released the 2008 *Typical Transferred Cases*

of the Protection of Exclusive Right of Registered Trademark and the 2008 *Classic Cases of the Suspected Counterfeiting Registered Trademark* which provided crucial information and data for the implementation of Trademark Strategy.

NCAC was devoted to the higher level of publicity via the National IPR Publicity Week and key festivals and events. During the Week, NCAC and CCTV jointly held a TV program themed as “Copyright in daily life, copyright creates fortune”. To further promote the public awareness of copyright, NCAC also launched a series of programs with other departments—“Green Bookmark Campaign 2009—Say No To Piracy, Starts From Me” with the National Eliminate Pornography and Illegal Publication Office and CCTV; the National Youth Reading Campaign on Copyright Protection and Copyright Protection Knowledge Contest to raise awareness of refusing piracy among the youth; NCAC established copyright publicity helpdesk at Beijing International Book Fair and 61st Frankfurt Book Fair held an array of shows that displayed the achievements in copyright protection in China like “Copyright Protection in China” and “Copyright Witnesses History” at International Book Fair and 2nd International Copyright Trading Exhibition. It also compiling the first *Yearbook of China Copyright* which systematically introduced the development of Chinese modern copyright system.

Customs at all levels launched IPR protection publicity programs based on current economic climate and the functions of its branches. During the April 26 Na-

tional IPR Publicity Week in 2009, the Customs focused on introducing relevant laws and regulations concerning IP protection and answered questions from right holders and the public, which facilitated their understanding of the amended *Implementing Measures for Regulations on Customs Protection of Intellectual Property Rights*. The Customs published the white paper—*Intellectual Property Protection by Chinese Customs in 2008*, and selected and publicized *Top 10 IP Protection Cases by Chinese Customs in 2008*. The public warmly recognized these achievements.

MOA launched a series of publicity programs—the 3rd National Agricultural Forum on Intellectual Property, active dissemination of agricultural IP knowledge via TV, radio, newspaper, magazine, website so as to give full play of guidance role of publicity, provision of agricultural IP knowledge for better awareness and recognition of agricultural IP and favorable climate for innovation.

On April 23, 2009, MOA, SFA, and SIPO jointly launched a series of celebrations in Beijing, which featured the implementation of *Regulations of the People's Republic of China on the Protection of New Varieties of Plants*, 10th anniversary of China's entry into International Union For The Protection Of New Varieties Of Plants, and international symposium on protection of new varieties of plants. Also, some model institutions and individuals were honored, which created a favorable environment for the protection of new varieties of plants.

SFA held the theme exhibition for the protection of new varieties of plants on the 7th National Floriculture Exposition to publicize the protection and enhance the public awareness of protecting new varieties of plants via introduction of laws and regulations, exhibition of accredited plants, broadcasting of videos and audios.

MPS had been treating the publicity as the leading and basic measure and implemented various programs and forms in publicity. Collaborating with SIPO, the MPS held the China High-level Forum on Intellectual Property and delivered the impressive slogan of “The public as the main force act to stop counterfeiting and piracy” which draw extensive attention. It also issued the circular jointly drafted with SIPO and other departments to require local departments of public security to take initiative in organizing and leading local publicity work. During the Spring Festival and the National IPR Publicity Week, local departments of public security held face-to-face discussions and information exchange, so as to disseminate IP related laws and policies as well as unveil damages caused by counterfeiting and infringement.

SPC took full advantage of the typical judicial precedents to demonstrate and guide the IP cases. During the National IPR Publicity Week, SPC published 10 influential cases in judicial IP protection in China in 2008 as well as 50 typical cases and the first *Annual Report on IP Cases by the Supreme People’s Court (2008)*. In addition, it conducted special investigation about web copyright, compensation for

infringed audio and video products, and anti-monopoly civil litigation

On April 9, SPC issued the *Notice on Annual National Campaign in IP Trial among People's Courts at All Levels for Creating Favorable Judicial Climate of Self-innovation and organized relevant activities* To effectively implement the national IP strategy and play the leading role in judicial protection for IP, local people's courts set down stage-by-stage implementation measures. They made important achievements in the following fields—good settlement of patent cases cultivating innovation capability in science and technology and expanding innovation scope; preserving the credit of trademarks and promote the growth of independent brands; improving the trade and investment environment to further enhance the opening-up.

The Supreme People's Procuratorate of the People's Republic of China attached great importance to the publicity of combating IP crimes. Several special reports were published on *Procuratorate Daily*, www.jcrb.com, and other media to introduce the implementation of *Outline of the National Intellectual Property Strategy* by procuratorate departments, like *Systematic Integration of Administrative Enforcement and Criminal Justice* and *Extension of Supervision Scope of Criminal Case Establishment*. These essays also publicized the effectiveness of cracking down on IP infringements, IP protection, and typical cases by procuratorate departments.

VII. IP Training Showed New Outlook

In 2009, IP training developed further and professional development took new shape.

SIPO continued to advance the BaiQianWan IP Talents Program for the development of IP professionals with high quality. SIPO also collaborated with local governments, universities and institutions to develop IP training modes, integrated resources, and establish IP professional training bases. It conducted the compiling of 12 Five-Year Plan for IP talents and formulated the working plan of establishing IP talents pool to promote IP talents cultivation.

Centering on the implementation of IP strategy, local IP administrations delivered over 3, 000 industry and business-oriented training programs for more than 600, 000 trainees, which enhanced the creation, management, exploitation, and protection of IP by businesses and public institutions.

SAIC intensified the training for trademark strategy. It established the *Training Program for Heads of Local Administration for Industry and Commerce in Trademark Strategy* and delivered a series of training for the heads above municipal level in trademark strategy. In November 2009, SAIC held training workshop for trademark strategy and symbols protection in World Expo in Shanghai for over 240 trai-

nees from local administrations. That was the largest training session ever held by administration for industry and commerce and the constructive experiment which integrated trademark strategy and symbols protection in World Expo.

NCAC made breakthroughs in training Party and administrative leaders, copy-right enforcement officials, and managers for copyright affairs. NCAC and the Organization Department of the CPC Central Committee jointly held Workshop on National Copyright Affairs to train the local officials in charge of copyright affairs. To enhance the confidence and capability of local copyright enforcement officials, it held 3 workshops in Shandong, Jiangxi, and Inner Mongolia. In June and September of 2009, the Office of Inter-agency Meeting for Applying Legal Software in Business together with State-owned Assets Supervision and Administration Commission of the State Council held training workshops in Shenzhen and Beijing for nearly 800 relevant professionals in central state-owned enterprises to promote the application of legal software in the businesses.

GAC emphasized its capability development. It trained experts for IP protection in the Customs via theoretical study and holding seminars. It provided relevant trainings to front-line officials by means of hosting enforcement training seminars on special IP protection campaigns in the channel of post and express mail and Sino-France customs IP protection workshop, so as to increase enforcement capabilities and facilitate the professional development of IP protection by the Customs.

MPS intensified the professional training to foster the team building in expertise. In May 2009, it compiled and published *Selection of Economic Criminal Cases III—IP Infringements* to introduce the investigation procedures and evidence requirements in dealing with criminal cases infringing IP rights for front-line officials and inspectors. This book provided effective guidance and assistance to local enforcement practices and standardization building. In July 2009, it held training seminar on IP criminal enforcement for public security agencies nationwide which invited experts and scholars from central departments, science and research institutions and enforcement agencies from abroad to systematically introduce the interpretation and application of existing laws, identification and determination of counterfeit trademarks, investigation and leadership in criminal IP infringements for 130 police officers from departments of economic investigation, public security, and cyber security in provincial and municipal public security bureaus.

SPC highly valued the cultivation of IP judges and intensified training on their expertise and trial techniques. Since 2009, it revised and supplemented the professional training contents for IP trial with focus on the training for IP judges in intermediate and primary courts. In August 2009, it held a national workshop for 240 IP judges from intermediate and primary courts which aimed to address the new issues in IP trials in National Judge Institute.

The Supreme People’s Procuratorate intensified the training for settlement of IP

criminal cases. In April 2009, it held IP workshop and on-the-spot experience exchange meeting in integrating administrative enforcement and criminal justice in Jiangsu Province. Relevant officials from MPS, GAC, and Ministry of Commerce as well as experts and scholars were invited to introduce the trends in IP infringements and the problem and countermeasures in handling IP cases. In addition, some procuratorate departments were invited to exchange experience in establishing the mechanism of “integrating web and sharing information” as well as integrating administrative enforcement and criminal justice, especially transferring suspected IP infringement cases, which contributed to the crackdown on IP infringements and integration of administrative enforcement and criminal justice. In June 2009, it held the first training session for officials and invited SIPO leaders to make speech on national IP strategy.

VIII. New Development Scored in the International IP Exchange and Cooperation

In 2009, the international cooperation in the IP field made new developments by further improving the multilateral and bilateral cooperation mechanisms, expanding the cooperation means and scope, and increasing the cooperation level.

SIPO continued to coordinate and organize relevant agencies to actively partici-

pate in the negotiation and discussion of international intellectual property affairs, deepened the cooperation in the IP field with international organizations such as the World Intellectual Property Organization (WIPO), and other countries and regions, and promoted the overall development of international cooperation in the IP field.

In March, Mr. Francis Gurry, Director General of WIPO, attended the WIPO Trans-Regional Intellectual Property High-Level Forum and the WIPO Informal Roundtable Meeting co-organized by SIPO, SAIC, and NCAC Vice Premier Wang Qishan attended the opening ceremony, and Premier Wen Jiabao met Mr. Gurry and his delegation and made keynotes on IP issues. Mr. Tian Lipu, Commissioner of SIPO, held formal meeting with Mr. Gurry and reached agreement on some important cooperation issues such as co-organizing the China Patent Golden Award, the Advanced Patent Cooperation Treaty Roving Seminar, and the World Expo.

In June, under the joint efforts made by SIPO, SAIC, NCAC and the Permanent Commission in Geneva, Madam Wang Binying, the candidate nominated by the Chinese government, was successfully elected as Deputy Direct General of the WIPO at the 60th session of WIPO Coordination Committee.

On October 25th, Commissioner Tian Lipu signed the Memorandum of Understanding between China and ASEAN on Cooperation in the Field of Intellectual

Property representing the Chinese government, while Premier Wen Jiabao and leaders from ASEAN member countries attended the signing ceremony.

In 2009, SAIC actively carried out a series of bilateral and multilateral exchange and cooperation programs in the trademark field. SAIC dispatched participants to join several bilateral and multilateral meetings, strengthened exchange and cooperation with trademark offices of the United States, Japan, Europe, and other countries, signed cooperation memorandum with trademark competent authorities of many countries and regions such as EU, Korea, France, Japan, Viet Nam and etc. It attended the 28th APEC IP expert group meeting held in Singapore, participated in the 131st annual meeting of the International Trademark Association and the trademark seminar between China and Canada, held the 7th Head Meeting between the Chinese and Japanese Trademark Offices in Beijing, continued to promote the Sino-EU Second Phase IP Cooperation Program, and organized the comparative study on the registration of trademarks between China and Europe.

From November 30th to December 1st, 2009, SAIC and the WIPO jointly organized seminar on geographical indications in APEC areas in Chongqing, for the purpose of exchanging and exploiting experiences and practices in utilizing geographical indications to promote economic development in rural areas. Over 200 representatives and experts from WIPO, international organizations and trademark authorities of Thailand and South Africa, and relevant Chinese departments attended

the meeting. During the seminar, other events such as Achievements Exhibition on Trademark and Geographical Indications of Agricultural Products in China were also held.

In 2009, NCAC carried out international exchange and cooperation in line with the opening-up policy and expansion of foreign trade relationship. NCAC dealt with the copyright issues at WTO appropriately, cooperated with relevant agencies to deal with the WTO IPR dispute raised by the United States, and successfully accomplished the preparation work for the WTO 8th transitional review and the biennial policy review on China. NCAC actively expanded cooperation field with the WIPO and expressed the stance of the Chinese government on various important issues such as folklore, intellectual property and development, copyright and related rights. To promote the bilateral and multilateral copyright cooperation, NCAC actively coped with the challenges of copyright protection under the APEC framework. By actively participating in the Sino-US strategic and economic dialogue and Sino-EU intellectual property dialogue, NCAC appropriately handled the Sino-US, Sino-EU, and Sino-Japan copyright bilateral relationship. NCAC actively participated in the Sino-Norway and Sino-Costa Rica free trade area negotiation, joined the IPR working group meeting under the Sino-Brazil Sino-Russia Economic and Trade Committee, and strengthened the cooperation with ASEAN countries in the field of copyright.

GAC continued to promote the cooperation with customs in other countries and regions in IP enforcement information exchange, enforcement training, and exchange of enforcement experiences and personnel. In January, 2009, during Premier Wen Jiabao's visit to the EU headquarter, *the Action Plan on Strengthening IPR Protection between China and EU Customs* was smoothly signed. Both sides established IPR working groups and expert groups to carry out enforcement cooperation systematically. In addition, GAC continued to implement *the Memorandum on Strengthening IP Boarder Enforcement Cooperation* signed with the US custom, enhanced cooperation with Japanese and Korean customs under the framework of *the Zero Counterfeit Plan*, and accumulated rich experiences in information and trend analysis and assistance in case investigation.

In 2009, MOA organized a training course on the protection of new varieties of plants for the 10 members states of ASEAN, actively participated in a series of meetings held by the International Union for the Protection of New Varieties of Plants (UPOV) and the formulation of related international rules, finished the research and preparation on the test guidance on millet and other agricultural plants authorized by the UPOV, and successfully organized the 43rd UPOV Vegetable Technical Working Group Meeting, the Sino-Germany International Symposium on the Protection of New Varieties of Plants, through which China's role in the international protection of new varieties of plants was enhanced.

In April, 2009, MOA, SFA, and SIPO co-organized the Second Meeting of the East Asia Forum on the Protection of New Varieties of Plants and the International Symposium on the Protection of New Varieties of Plants, in which representatives from many countries, relevant international organizations, research institutes and enterprises participated.

In 2009, MPS took a full advantage of the IPR cooperation carried out by China and EU, actively participated in the Sino-EU IPR cooperation programs and formulated the specific plans to implement the cooperation programs, and made substantial achievements in enforcement exchange, training, and other areas. MPS successively cooperated with the U. S. Department of Homeland Security, Federal Bureau of Investigation, the UK Serious Organized Crime Agency, the French Ministry of Civil Affairs, and other foreign enforcement agencies in assisting investigation and obtaining evidences, informing criminal clues, and providing judicial assistance in handling the “Summer Solstice Case” and some other cases. MPS joined and organized many overseas visits under the bilateral framework such as the Sino-US and the Sino-Brazil business and trade committees, the Sino-US joint enforcement liaison group, the Sino-EU and the Sino-Japan IPR working group, and the Sino-UK annual enforcement meeting, and the multilateral framework such as the cooperation with the World Police Organization, received visits from foreign government departments and enforcement agencies and joined their

meetings. During the foreign exchange, MPS introduced the achievements in IP protection made by the public security departments.

In 2009, SPC held an international seminar on IP judicial protection and other symposiums, organized a study group to visit the United Kingdom, Belgium, Germany and Luxemburg on the EU competition law, and co-hosted the seminar on the Sino-US anti-monopoly civil litigation issues with the U. S. Federal Trade Committee. Such activities further enhanced the theoretical study on IPR trials and effectively promoted the unification and specification of judging criteria.

The Supreme People's Procuratorate paid attention to strengthening cooperation with IPR international organizations and related countries, which actively supported the foreign related IP negotiations. In 2009, the SPP dispatched representatives to join the Sino-EU, Sino-Swiss, Sino-Brazil, and Sino-Japan IP working groups, the Sino-US Business and Trade Committee, the WTO review on China's trade policies, the transitional review of WTO TRIPs council on China and the report on China's trade policy, actively participated in the Sino-EU IP Cooperation Program (Phase II), and organized a delegation consisted of directors from the investigation and supervision bureaus of the Supreme People's Procuratorate and local procuratorate agencies to pay a study visit to Germany, the Netherland, and Denmark on IP protection at the invitation of European Patent Office.