

# 二〇一〇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。)

# 目 录

一、立 法	1
二、审批登记	3
三、执 法	8
四、机制和能力建设	18
五、上海世博会、广州亚运会知识产权保护专项工作	23
六、宣 传	26
七、教育培训	30
八、国际合作	34

# 二〇一〇年中国知识产权保护状况

2010年，是“十一五”规划的收官之年，是中国国家知识产权战略实施全面推进的关键一年。中国政府以经济建设为中心，坚持中国特色的自主创新道路，大力实施国家知识产权战略。为落实《国家知识产权战略纲要》的总体部署，中国知识产权保护各有关部门根据《2010年中国保护知识产权行动计划》的具体工作安排，按照“完善制度、加强执法、突出专项、推进协调、强化宣传、规范管理”的指导方针，不断夯实工作基础，从立法、审批登记、执法、机制和能力建设、宣传、教育培训、国际交流合作等方面有效推进知识产权保护工作的全面开展，成效显著。

## 一、立 法

2010年，根据经济和社会发展需要，知识产权立法工作有序开展，知识产权法律、法规、规章以及相关规范性文件不断完善。

《专利法》及其实施细则第三次修改工作顺利完成，修改后的《专利法实施细则》于2月1日开始施行，修改后的《专利法》及

《专利法实施细则》提高了专利授权标准，完善了外观设计审查制度、强制许可制度，增加了诉前证据保全制度和维护公众权益的措施，加强了专利保护力度；同时，《专利行政执法办法》、《专利审查指南》等 12 部规章的制定、修订工作基本完成，其中《专利行政执法办法》的修订着力于解决专利行政执法实践中存在的突出问题，进一步规范了专利行政执法行为，加强了专利权保护。

《商标法》修订工作持续推进，2009 年国家工商行政管理总局报请国务院审议的《商标法（修订送审稿）》已广泛征求意见并就意见集中问题展开研讨和调研；同时，《商标法实施条例》等配套法规的修改工作稳步推进。

新修订的《著作权法》已于 2 月 26 日公布，并自 4 月 1 日起施行；《著作权质权登记办法》已于 11 月 25 日颁布；《民间文学艺术作品著作权保护办法》等法规，《作品自愿登记办法》、《教科书法定付酬办法》等规章的修改和制定工作也取得了积极进展。

修订了《中华人民共和国知识产权海关保护条例》，并于 4 月 1 日起实施。

农业部发布《第八批农业植物品种保护名录》；组织修订和制定了《农业植物新品种权侵权案件处理规定》、《农业部植物新品种复审委员会审理规定》和《农业植物品种命名规则》等规章并形成了送审稿；研究起草了《农业遗传资源权属登记管理办法

(草稿)》；会同国家林业局联合研究制定了《关于台湾地区申请人在大陆申请植物品种权的暂行规定》；组织制定了《农产品地理标志质量控制技术规范（编写指南）》。

最高人民法院根据各类知识产权的不同特点和保护需求，有针对性地制定和发布规范性文件，推进了知识产权审判工作的规范化和统一性。4月，制定并发布《最高人民法院关于审理商标授权确权行政案件若干问题的意见》，首次以规范性文件的方式，对商标授权确权行政案件的若干司法审查标准提出指导性意见；11月，发出《关于做好涉及网吧著作权纠纷案件审判工作的通知》，针对网吧著作权纠纷案件存在的突出问题，及时明确了该类案件的审理原则和具体标准；有关垄断民事纠纷案件的司法解释起草工作稳步推进，已形成会议讨论稿。此外，最高人民法院深入开展认定驰名商标案件的评查，对于驰名商标司法认定进行专项规范。

## 二、审批登记

2010年，中国知识产权审批登记工作稳步推进，在质和量两个方面均取得新的突破。

2010年，国家知识产权局共受理专利申请1 222 286件，首次突破百万大关，同比增长25.1%。国内申请1 109 428件，占总量

的 90.8% ，同比增长 26.4% ；国外来华申请 112 858 件，占总量的 9.2% ，同比增长 13.9% 。其中，发明专利申请 391 177 件，占总量的 32.0% ，同比增长 24.4% ；实用新型专利申请 409 900 件，占总量的 33.5% ，同比增长 31.9% ；外观设计专利申请 421 273 件，占总量的 34.5% ，同比增长 19.9% 。

国家知识产权局全年共授权专利 814 825 件，同比增长 40.0% 。国内专利 740 620 件，占总量的 90.9% ，同比增长 47.6% ；授权国外来华专利 74 205 件，占总量的 9.1% ，同比降低 7.5% 。其中，发明专利 135 110 件，占总量的 16.6% ，同比增长 5.2% ；实用新型专利 344 472 件，占总量的 42.3% ，同比增长 69.0% ；外观设计专利 335 243 件，占总量的 41.1% ，同比增长 34.3% 。

2010 年，国家知识产权局共受理依据《专利合作条约》提出的国际申请 12 917 件，同比增长 61.5% ；进入中国国家阶段的国际申请共 62 558 件，同比增长 16.6% ，其中发明专利申请 62 317 件，实用新型专利申请 241 件。

2010 年，国家知识产权局专利复审委员会受理复审请求 12 369 件，比 2009 年增加 3 174 件，同比增长 34.5% ；受理无效宣告请求 2 411 件，比 2009 年增加 164 件，同比增长 7.3% 。

国家知识产权局全年收到集成电路布图设计登记申请 1 108

件，予以公告并发出证书 1 009 件。

国家知识产权局全年专利许可合同备案 9 771 件，数量增长迅速，许可专利 18 540 件。登记专利质押合同 362 件；质押金额 65.9696 亿元。

2010 年，国家工商行政管理总局共受理商标注册申请 1 072 187 件，突破百万大关，连续 9 年位居世界第一；共审查商标注册申请 1 480 680 件，审查周期由 36 个月以上缩短至 1 年之内，提前两个月彻底解决商标审查积压问题；共受理异议申请案件 48 930 件，同比增长 24.07%，共裁定商标异议案件 32 447 件，同比增长 29.68%；共受理商标续展注册申请 78 016 件，办理续展注册商标 68 141 件；受理变更商标注册事项申请 127 995 件，办理变更注册商标 111 381 件；受理商标转让申请 86 182 件，办理转让注册商标 84 966 件；受理商标使用许可合同备案申请 20 524 件，办理 24 554 件；备案特殊标志 2 120 件，官方标志 4 件。截至 2010 年底，中国商标注册累计申请 829.5 万件，累计注册商标 562.8 万件，有效注册商标 460.4 万件，均居世界第一。国家工商行政管理总局受理地理标志商标申请 382 件，注册和初步审定 269 件；截至 2010 年底，累计核准注册和初步审定地理标志商标 1 040 件，累计核准注册农产品商标 95.12 万件。

2010 年，国家工商行政管理总局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 16 142 件，国内申请人通过国家工商行政管理总局提出的马德里商标国际注册申请 1 820 件。截至 2010 年底，累计通过马德里体系领土延伸指定中国的申请量为 154 302 件，连续 6 年位居世界第一；中国申请人提交的马德里商标国际注册申请累计已达 11 427 件，在发展中国家排名第一。

2010 年，国家工商行政管理总局共收到商标评审案件新申请 72 253 件，同比增长 24.9%。其中收到驳回复审案件 61 920 件，同比增长 22.4%；收到争议、异议复审等复杂案件 10 333 件，同比增长 41.8%。共审理商标评审案件 39 220 件，同比增长 9%。其中审理驳回复审案件 29 985 件，同比增长 4.9%；审理争议、异议复审等复杂案件 9 235 件，同比增长 9.8%。收到涉及商标注册程序性争议行政复议申请 103 件，同比增长 22.6%。

2010 年，中国软件著作权登记量达 81 966 件，连续 5 年保持高速增长态势，整个“十一五”期间，中国软件著作权登记量从 2006 年的 2 万余件逐年递增至 8 万余件，翻了两番，平均年增速达 37%，5 年累计总量已达 24 万余件，是“十五”期间的 4 倍。2010 年全国作品自愿登记量达 375 649 件，著作权合同备案 502 件，著作权质押合同登记 77 件，均实现了逐年递增。

2010 年，农业部和国家林业局加大工作力度，植物新品种保

护进一步加强。农业部全年受理国内外植物新品种权申请 1 206 件，创历史新高，其中外国人申请 116 件，较 2009 年增长 11.5%。年申请量居国际植物新品种保护联盟第四位。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 666 件，较 2009 年增长 34.8%；受理审查各类植物新品种复审请求 25 件，结案 25 件，是 2009 年的 5 倍。截至 2010 年 12 月 31 日，国内外植物新品种权申请累计达 7 761 件，已结案 4 214 件，授予品种权 3 473 件。农产品地理标志登记不断加快。全年新公告颁证农产品地理标志产品 334 个。截至 2010 年 12 月底，农业部已累计公告颁证农产品地理标志产品 536 个。国家林业局全年受理国内外品种权申请 89 件，对 95 个新品种权申请进行了初步审查，对 38 个新品种权申请进行了实质审查。授权植物新品种 26 件，“十一五”期间申请量和授权量比“十五”期间分别增长 81% 和 115%。

2010 年，海关知识产权保护备案数量不断增加，截至 2010 年底，海关总署共核准知识产权备案申请 20 194 件，其中 2010 年新增核准备案 3 035 件。

### 三、执 法

#### 1. 专项行动

2010年，中国知识产权各相关部门结合自身职能，完善执法机制，加强执法力度，知识产权执法进一步形成合力。

为加大知识产权保护力度，维护公平有序的市场环境，中国国务院作出部署，决定自2010年10月至2011年3月，在全国集中开展打击侵犯知识产权和制售假冒伪劣商品专项行动（以下简称专项行动），对产品制造集中地、商品集散地、侵犯知识产权和制售假冒伪劣商品案件高发地等重点地区，新闻出版业、文化娱乐业、高新技术产业、农业等重点领域，图书、音像、软件、大宗出口商品、汽车配件、手机、药品、种子等重点产品的侵权行为进行集中打击和专项整治。

在专项行动开展过程中，中国各地区各部门积极动员部署，狠抓落实，推动专项行动顺利开展，相关工作取得重要成效。

国家知识产权局印发《关于印发〈知识产权局系统执法专项行动方案〉的通知》、《关于进一步抓紧贯彻落实专项行动工作部署的通知》、《关于加强知识产权维权援助中心举报投诉维权服务工作的通知》等文件；加大打击专利领域群体侵权、反复侵权和

假冒专利行为力度，加强知识产权维权援助中心建设及举报投诉工作。

自专项行动开展以来，全国知识产权局系统专利执法力度明显加强，执法办案量显著增加。2010年10~12月，共执法办案805件，占全年总执法办案量的44.16%。其中，受理专利纠纷案件458件，同比增长99.13%；查处假冒专利案件347件，同比增长101.74%；共出动执法7044人次，同比增长102.59%；检查商业场所2568次，同比增长96.78%；检查商品732073件，同比增长89.02%；跨地区执法协作478次，同比增长419.57%，有力打击了专利侵权假冒行为。

全国工商系统积极落实专项行动，截至2011年1月7日，各级工商机关共出动执法人员722350人次，检查经营主体1694779户，检查批发零售市场和集贸市场等各类市场108213个，捣毁制假售假窝点1372个，立案查处侵权假冒案件16036件，其中侵犯驰名商标权益案件2525件，涉外商标专用权案件2439件，地理标志商标专用权案件242件。其中查处利用网络销售假冒伪劣商品案件91件，受理和处理消费者申诉和举报17397件，为消费者挽回经济损失7384.201万元。

全国版权部门集中开展打击侵犯知识产权和制售假冒伪劣商品专项行动，积极落实印刷复制生产源头治理、出版物市场治理、打

击网络侵权盗版等重点工作，加强行政执法和市场监管。目前，挂牌督办的 55 起重大案件已依法宣判 5 起，34 起进入司法程序，查破大要案件工作取得初步成效。政府机关软件正版化检查整改工作扎实推进，已有 31 家中央国家机关和青岛市市、区两级机关完成检查整改工作。企业软件正版化工作积极推进，经验收已完成软件正版化企业 1 621 家。

海关总署专门制定专项行动实施方案，截至 2011 年 2 月底，全国海关共扣留侵权货物约 7 389 批次，涉及侵权商品约 4 407 万件，案值约达 1.03 亿元人民币。

公安部组织全国公安机关开展打击侵犯知识产权和制售伪劣商品犯罪“亮剑”专项行动。截至 2010 年底，全国公安机关破获侵犯知识产权和制售伪劣商品案件 2 049 起，涉案价值 23.07 亿元，抓获犯罪嫌疑人 4 157 名，逮捕 930 名，捣毁制假窝点 916 个，打掉批发销售团伙 417 个。破获案值 100 万元以上的大要案件 306 起，各项战果已达到往年同期的 3 倍。在“亮剑”行动中，各地以侦破大要案件为突破口，成功破获北京“7·16”特大制售假药案、江西张某制售假冒“惠普”、“佳能”等品牌打印机耗材案、山东袁某制售假冒妇幼用品案、广东敖某利用互联网销售假冒名牌音响器材案等大要案件，并在深入推进“亮剑”专项行动中，将 50 起大要案件列为公安部“亮剑”专项行动第一批督办案件，下

发各地予以重点督导，确保案件做到严查严办、彻查彻办。

## 2. 日常执法

在适时开展专项行动，加大对侵权假冒行为集中打击力度的同时，知识产权各相关部门结合自身职能，加强日常执法，大力推进知识产权保护工作。

2010年，国家知识产权局先后制定印发《2010年知识产权局系统执法工作安排》、《专利行政执法操作指南》等文件，部署、指导、推进全国执法工作的开展。全国知识产权局系统深入开展“雷雨”、“天网”知识产权执法集中行动，大大遏制了群体侵权、反复侵权与专利诈骗行为的发生，震慑了违法分子，对营造创新与发展的良好环境发挥了重要作用。

全国知识产权局系统共受理专利侵权纠纷案件1 095件，受理其他专利纠纷案件18件，查处假冒专利案件728件，出动执法人员20 646人次，检查商业场所10 642次，检查商品2 134 668件，跨部门执法协作545次，跨地区执法协作972次。

全国各级工商行政管理机关以保护注册商标专用权为核心，加大驰名商标认定和保护工作力度，重点查处侵犯食品、药品、农产品商标、驰名商标、地理标志、涉外商标专用权的违法行为，加大商标行政执法力度，严厉打击商标侵权假冒行为，全年共查处各类商标违法案件56 034件，查处一般违法案件7 486件，商标侵权假

冒案件 48 548 件，其中查处商标涉外案件 11 524 件；共收缴和消除违法商标标识 1 275. 22 万件，案值 140 561 万元；移送司法机关涉嫌商标犯罪案件 175 件，犯罪嫌疑人 163 人；对 2 310 件商标通过驰名商标认定进行扩大保护，其中 114 件为外国注册人所有，分属 16 个国家和地区，有效保护了国内外商标注册人的合法权益。

国家版权局在强化行政执法、提升行政执法能力和水平方面取得突出成效。深入开展打击网络侵权盗版专项治理“剑网行动”。在行动第一阶段，各地版权执法部门已查处“音乐在线”、“翠微居网”等 204 起侵犯著作权案件，正在立案查处 157 起，其中“江苏中国宽频网”等 30 起涉嫌构成犯罪的案件移送公安机关。同时加强主动监管，对悠视网、Verycd 等 15 家大型网站视频作品传播进行实时监控。

文化部先后下发了《文化部文化市场司关于规范网络音乐市场秩序 整治网络音乐网站违规行为的通告》、《文化部办公厅关于集中清理整治一批违规网络音乐网站的通知》、《文化部文化市场司关于查处违法动漫产品的通知》等文件。通过组织专项整治行动，加大对侵权盗版音像、书刊、网络游戏、网络音乐、动漫等产品的查处力度，坚决杜绝在合法经营场所存储、摆放及销售侵权盗版产品，在宁波等地查处了一批文化市场重大案件，有效遏制了侵权行为的发生，大力净化市场环境。

2010年，全国文化行政部门和文化市场综合执法机构共出动检查8 145 206人次；责令经营单位改正131 681家次；受理举报47 816件；立案调查60 132件；移交案件2 184件；办结案件51 248件；警告经营单位120 984家次；罚款14 877万余元；没收违法所得186万余元；没收非法物品2 810万余件；停业整顿12 378家次；吊销许可证426家。

2010年，农业部高度重视知识产权执法，将种子生产环节、种子生产源头作为执法重点，强化源头监管，提高执法效率。在23个省（区、市）抽取1 330份种子样品并进行了身份鉴定，打击“套牌”假冒侵权行为。2010年10月份以来，先后吊销5家生产销售侵权假冒种子企业的生产经营许可证。地方农业部门查处了37件侵犯品种权和制售假冒伪劣种子案件，涉案种子达35万千克，案值达500余万元，侵权人共赔偿品种权人损失12.7万元。加强对授权品种生产许可证发放的管理。选择11个粮食大省作为品种权执法试点，进一步强化行政执法。

国家林业局以林木种苗质量监管为执法工作重心，组织4个国家级种苗质量检验中心对19个省（区、市）林业重点工程造林使用种苗质量进行抽查，对林木种苗生产经营许可、标签制度执行、林木种子来源等情况进行重点检查，有效加强了涉及林木新品种的知识产权保护力度。

中国海关全年共扣留侵权货物约 2.03 万批，涉及侵权商品约 1.1 亿件，商品价值达人民币约 2.5 亿元。其中，主动依职权扣留的侵权货物和物品达到了 20 138 批，占全部扣留批次的 99.5%。

### 3. 司法工作

2010 年，全国司法机关统一认识，进一步加大知识产权司法保护力度，知识产权司法保护工作有效开展。

2010 年，人民法院受理的知识产权民事案件继续迅猛增长，知识产权民事审判在知识产权司法保护中的主渠道作用更加明显。全国地方法院共新收和审结知识产权民事一审案件 42 931 件和 41 718 件，同比分别增长 40.18% 和 36.74%。其中，新收专利案件 5 785 件，同比增长 30.82%；商标案件 8 460 件，同比增长 22.50%；著作权案件 24 719 件，同比增长 61.54%；技术合同案件 670 件，同比下降 10.31%；不正当竞争案件 1 131 件（其中垄断民事一审案件 33 件），同比下降 11.78%；其他知识产权案件 1 966 件，同比增长 14.17%。全年共审结涉外知识产权民事一审案件 1 369 件，同比增长 0.59%；审结涉港澳台知识产权民事一审案件 278 件，同比下降 21.25%；审结垄断民事一审案件 23 件。全年共新收和审结知识产权民事二审案件 6 522 件和 6 481 件，同比分别增长 22.13% 和 18.01%；再审案件 111 件和 109 件，同比分别增长 11% 和 1.87%。最高人民法院新收和审结知识产权民事案件

313 件和 317 件（含旧存），其中新收申请再审案件 198 件，审结 206 件（含旧存）。

知识产权民事案件的审判质量和效率不断提高。2010 年，全国地方法院知识产权民事案件一审结案率从 2009 年的 85.04% 上升到 2010 年的 86.39%；再审率从 2009 年的 0.33% 下降到 2010 年的 0.27%；上诉案件改判发回重审率从 2009 年的 6.00% 下降到 2010 年的 4.57%。知识产权诉讼调解效果显著，2010 年全国知识产权民事一审案件平均调解撤诉率达到 66.76%，同比上升 5.68%。全国地方法院知识产权一审民事案件审限内结案率由 2009 年的 97.38% 上升到 2010 年的 97.93%。最高人民法院知识产权审判庭的结案率为 87.33%。

2010 年，全国地方法院共审结涉及知识产权侵权的刑事案件 3 942 件；判决发生法律效力 6 001 人，其中有罪判决 6 000 人。在审结案件中，以侵犯知识产权犯罪判决的案件 1 254 件，生效判决人数 1 966 人，同比分别上升 24.53% 和 22.49%；以生产、销售伪劣商品犯罪（涉及侵犯知识产权）判处的案件 609 件，生效判决人数 926 人；以非法经营罪（涉及侵犯知识产权）判处的案件 2 054 件，生效判决人数 3 068 人；以其他犯罪判处的涉及侵犯知识产权的案件 25 件，生效判决人数 41 人。在以侵犯知识产权犯罪判决的案件中，以假冒注册商标罪判决的案件 585 件，生效判决人

数1 028人；以销售假冒注册商标的商品罪判决的案件 345 件，生效判决人数 459 人；以非法制造、销售非法制造的注册商标标识罪判决的案件 182 件，生效判决人数 253 人；以假冒专利罪判决的案件 2 件，生效判决人数 3 人；以侵犯著作权罪判决的案件 85 件，生效判决人数 142 人；以销售侵权复制品罪判决的案件 5 件，生效判决人数 10 人；以侵犯商业秘密罪判决的案件 50 件，生效判决人数 71 人。

2010 年，全国地方法院新收一审知识产权行政案件 2 590 件；审结 2 391 件。其中，新收专利案件 551 件，同比下降 17.51%；商标案件 2 026 件，同比上升 47.23%；著作权案件 2 件，同比下降 50%；其他案件 11 件。最高人民法院新收和审结知识产权行政案件 60 件和 56 件。

2010 年，全国检察机关认真履行批捕、起诉等法律监督职能，打击侵犯知识产权犯罪。检察机关全年共受理提请批准逮捕涉及侵犯知识产权犯罪案件 1 887 件 3 368 人，相比 2009 年分别上升 26.5% 和 26.3%；批捕 1 566 件 2 613 人，相比 2009 年分别上升 24.7% 和 23.3%。共受理移送审查起诉涉及侵犯知识产权犯罪案件 2 207 件 4 122 人，相比 2009 年分别上升 14.3% 和 17.2%；起诉 1 697 件 3 066 人，相比 2009 年分别上升 10.6% 和 13.8%。

全国检察机关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。会同公安部等相关部门在全国开展“对行政执法机关移送涉嫌犯罪案件专项监督行动”，进一步加强对行政执法机关移送涉嫌犯罪案件的监督，推进各地案件移送、“两法衔接工作的规范化”。加强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，共监督公安机关立案侦查侵犯知识产权犯罪案件31件，相比2009年上升40.9%。此外，全国检察机关还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，对于涉嫌犯罪的坚决依法查办。

2010年，公安部始终将打击破案作为第一要务，不断加大刑事执法工作力度，持续保持对各类侵犯知识产权犯罪活动的高压严打态势。会同最高人民法院、最高人民检察院等部门经过近三年的深入调研，共同制定了《关于办理侵犯知识产权刑事案件适用法律若干问题的意见》，该《意见》的出台为公安机关打击侵犯知识产权犯罪工作提供了有力的法制保障；系统整理编写出《打击侵犯知识产权犯罪技战法汇编》，提升全国各级公安机关打击侵犯知识产权犯罪的专业素质和侦查能力。

## 四、机制和能力建设

2010年，中国知识产权保护各相关部门积极创新工作思路，机制和能力建设取得了新进展。

国家知识产权局继续围绕知识产权发展的中心任务，充分发挥组织协调职能，连续两年组织国家知识产权战略实施工作部际联席会议成员单位共同制定《中国保护知识产权行动计划》，连续三年联合相关部门召开“全国外商机构保护知识产权座谈会”，召开“全国内资企业保护知识产权座谈会”，强化与权利人的沟通对话机制。在全国专利执法协作机制的基础上，泛珠三角、长三角、环渤海、中部十六省市、西部十二省市、东北三省等跨省专利执法协作机制不断深化；广东、四川、河南、湖南等省内执法协作机制逐步完善。

截至2010年底，已有55个地方知识产权局进入“5·26”工程；有38家司法机构、研究开发和法律服务机构进入全国专利保护重点联系机制；共批复设立了71家维权援助中心，开通了12330知识产权维权援助与举报电话，逐步建成全国知识产权维权援助与举报投诉网络。

2010年，国家工商行政管理总局研究确定了首批53个国家商

标战略实施示范城市（区）和 41 家国家商标战略实施示范企业，推动 41 家示范企业签署《芜湖倡议》。同时，加大对中国海外商标维权力度，建立海外维权机制，加强与国际商标管理机关合作。10 月和 11 月分别成功解决了“镇江香醋”集体商标在韩国被恶意抢注案件和“孔子学院”商标在哥斯达黎加被恶意抢注案件。积极探索调解、和解结案机制。在积极推动解决商标评审案件积压，全力缩短案件审理周期的同时，准确适用法律，加强辩法析理，并适时引入调解、和解机制，实现了案件审理法律效果和社会效果的有机统一。

国家版权局进一步规范著作权集体管理组织的业务活动，同时，大力支持中央级版权相关协会及有条件地区探索建立版权调解机制。先后授予成都市“全国版权示范城市”称号，批准厦门、苏州、昆山创建“全国版权示范城市”的申请，进一步推动全国创建版权示范城市工作的开展。在版权执法方面，创造性地推行区域联防协作机制，与香港海关签署《打击网络盗版合作互助安排》；与台湾地区智慧财产部门就《海峡两岸知识产权保护合作协议》后续工作启动版权协助机制；先后建立长三角、粤港澳等协作处理机制，增强了版权区域执法的针对性和实效性。

农业部举办第四届农业知识产权论坛，调动社会力量研究农业知识产权政策、问题和对策；组织开展了 8 种主要农作物 DNA 指

纹鉴定方法标准研制；研究制定了农业植物新品种技术支撑体系建设规划，新建和扩建一批植物新品种种子种苗保藏库（圃）、植物新品种测试和鉴定机构；完成了农业知识产权信息平台框架建设。

国家林业局从林业发展特点和林业工作实际情况出发，积极探讨林业知识产权执法工作思路和方法。建立和完善植物新品种保护测试体系，目前已完成2个分中心、2个专业测试站的基本建设；组织开展了近70项林业植物新品种测试指南编制工作，验收了杏等21项测试指南，已经分别列入国家标准和行业标准发布执行；积极搭建林业知识产权公共信息服务平台，试运行“中国林业知识产权网”；加强林业知识产权数据库建设，重点完善和建设林业知识产权资源导航、林业专利、林业植物新品种权、软件著作权、林业地理标志、林业知识产权动态、林业知识产权文献和林业知识产权法律法规等10个林业知识产权基础数据库，入库记录达到30多万条。

海关总署设置主动保护与被动保护相结合的执法模式。在监管过程中发现进出口货物涉嫌侵犯已备案知识产权的，或者发现个人携带、邮寄的物品涉嫌侵犯知识产权的，可以对侵权行为主动予以查处；知识产权权利人认为进出口货物侵权的，无论知识产权是否已备案，都可以申请海关扣留货物。

2010年，公安部会同有关部门积极研究、优化创新刑事执法

与行政执法衔接配合机制，逐步建立起公安机关“主动侦查”与行政部门“阵地控制”相结合的工作模式，形成了“信息共享、事先介入、联合行动、优势互补”的协作新机制。据统计，全年公安机关共接收行政执法部门移送案件 754 起，同比上升 52.9%，凸显了协作新机制的作用；积极倡导与企业权利人在知识产权保护工作中的协作配合，建立起警企协作打假维权机制和举报受理快速渠道。

最高人民法院强化知识产权司法改革意识，采取多项有效措施，积极推动知识产权审判体制和工作机制的改革和完善，知识产权审判体系进一步优化。由人民法院的知识产权审判庭统一受理知识产权民事、行政和刑事案件（即“三审合一”）的试点工作稳步推进。截至 12 月底，全国已有 5 个高级法院、49 个中级法院和 42 个基层法院开展了相关试点。同时，知识产权审判制度创新不断强化。4 月，最高人民法院与中国科学技术协会联合签署了《知识产权司法保护合作备忘录》，在此基础上建立了最高人民法院特邀科学技术咨询专家库，钟南山、袁隆平等 11 位两院院士受聘担任最高人民法院科学技术咨询专家，最高人民法院在完善知识产权纠纷解决机制、提高知识产权司法保护水平方面又上新台阶。

2010 年，最高人民法院继续完善知识产权案件管辖布局，进一步优化审判资源配置。1 月，最高人民法院发布《关于调整地方

各级人民法院管辖第一审知识产权民事案件标准的通知》和《关于印发基层人民法院管辖第一审知识产权民事案件标准的通知》，统一明确了各级法院知识产权民事案件级别管辖标准。根据工作需要，适当增加了管辖一般知识产权案件的基层法院，鼓励中、基层法院开展跨地区划片集中管辖，探索指定部分基层法院管辖部分专利案件，进一步优化了全国法院知识产权案件审理格局。截至12月底，经最高人民法院指定，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人民法院分别为76个、44个、46个和41个，具有一般知识产权案件管辖权的基层法院达到101个。6月18日，最高人民法院批复同意江苏省昆山市人民法院开展试点审理实用新型和外观设计专利纠纷案件。

最高人民检察院积极推动“两法衔接”工作，加强对行政执法机关移送涉嫌犯罪案件的监督，特别是推动有条件的地方建立行政执法与刑事司法“网上衔接，信息共享”机制。目前，上海、云南全市（省）范围内，北京、江苏、广东、浙江、湖北、山东、河南、四川、吉林等省、市的部分地区建立了“网上衔接，信息共享”机制，成效明显，为检察机关及时监督行政执法机关移送涉嫌侵犯知识产权犯罪案件提供了便利条件。1月，经过认真研究、论证，最高人民检察院向国务院法制办报送《行政执法与刑事司法衔接工作情况及落实相关司法改革任务的建议》，为国务院

法制办制定两法衔接的改革措施意见，作出了积极贡献。

## 五、上海世博会、广州亚运会知识产权保护专项工作

2010年，中国知识产权各相关部门积极开展上海世博会、广州亚运会知识产权保护工作，有力保障了世博会和亚运会顺利举办，也借此契机大力提升了社会公众的知识产权保护意识。

国家知识产权局会同公安部、海关总署、工商总局、版权局、高检院、贸促会、新闻办联合下发《关于开展2010年世博会知识产权保护专项行动的通知》，紧抓“加强监管、完善管理；注重配合、严格执法；加大宣传，营造氛围”三大工作重点，在全国范围统一部署世博会知识产权保护专项工作，加强对地方工作的指导与协调。年初，制定印发专项行动工作方案；6月，组织开展世博会知识产权保护与管理专题调研；8月，开展专项行动中期督导检查，专项行动取得明显成效；12月，组织召开总结表彰大会，共有281个先进集体、518名先进个人获得表彰，专项行动圆满结束。9月，国家知识产权局联合中央外宣办、公安部、海关总署、工商总局、国家版权局、体育总局、高检院共同制定并印发《关于加强2010年广州亚运会知识产权保护工作的通知》，指导推动地方有关部门进一步做好广州亚运会知识产权保护及相关宣传工作。

根据《关于开展 2010 年世博会知识产权保护专项行动的通知》和《关于加强 2010 年广州亚运会知识产权保护工作的通知》，各地方、各部门结合自身职能，大力加强世博会和亚运会知识产权保护工作。

国家知识产权局制定印发《2010 年上海世博会专利执法维权工作方案》，围绕世博会标志的外观设计保护，参展品专利权稳定性等重点内容，对专利执法维权工作作出全面部署，加大对专利侵权假冒的打击力度。各地方知识产权局按照《方案》要求，制定本地区世博会执法维权工作方案，积极落实，在全国范围内深入开展专利执法维权工作。

国家工商行政管理总局加强了对世博会标志、亚运会标志等保护工作。注册各类世博会标志、特殊标志和商标共计 3 107 件，查处侵犯世博会标志专有权案件 1 132 件，核准亚运会标志和商标注册 2 539 件，为上海世博会、广州亚运会成功举办作出努力。国家工商行政管理总局商标局被中共中央、国务院授予“上海世博会先进集体”荣誉称号并进行了表彰。

国家版权局认真抓好世博会、亚运会专项保护工作。对世博会召开期间发生的侵犯世博会相关作品著作权案件及时采取紧急执法措施。上海市版权局联合市相关部门成立“世博会参展者知识产权服务中心”，为参展者作品登记提供绿色通道，依法维护世博会

有关作品的合法权益。在世博会打击盗版音像制品专项行动中，以上海、江苏、浙江、北京、广东为重点，各地版权执法部门共取缔非法摊点 2 933 个，收缴盗版音像制品 494 万张，立案查处音像盗版案件 370 余起，依法处理了北京东方新感觉音像出版社、学苑音像出版社、吉林音像出版社等企业的违法行为。广州亚运会版权保护工作借鉴世博会版权保护成功经验，建立珠三角联动机制，为亚运会的成功顺利举办提供了有效保证。

为加强世博会知识产权海关保护力度，海关总署先后 5 次核准 58 项世博会知识产权海关备案。上海海关专门成立世博会知识产权工作领导小组，重点开展保护工作。世博会期间，全国海关共查扣各类侵权货物 15 397 批，查获侵权货物 9 400 余万件，涉案货物价值 1.84 亿元人民币。

公安部从构筑平安世博、维护国家形象的大局出发，部署全国公安机关开展上海世博会保护知识产权专项行动，各地积极行动，强化落实，及时侦破了宋庆民等人制售假冒世博会门票、特许商品案等一批涉及世博知识产权的大要案件。据统计，上海世博会期间，各地共破获侵犯知识产权犯罪案件 1 589 起，抓获犯罪嫌疑人 3 006 名，缴获各类假冒盗版商品 1 260 余万件，涉案总价值达 13.7 亿元，为举办一届成功、精彩、难忘的世博会营造了良好的市场秩序和知识产权保护环境。

最高人民法院充分发挥能动司法作用，积极主动地为上海世博会和广州亚运会提供知识产权司法保障。专门赴上海就世博会知识产权司法保护问题进行调研，指导相关法院妥善审理相关案件。在世博会和亚运会期间，审理了一大批知识产权案件，有力打击了知识产权侵权和犯罪行为。

最高人民检察院充分发挥检察职能，保障了世博会的顺利举办，全国检察系统共有 90 个先进集体和个人获得表彰。此外，最高人民检察院还会同国家知识产权局、国家工商总局等部门联合下发了加强广州亚运会知识产权保护的通知，加强对广东等地办理亚运会知识产权案件的指导，确保了亚运会的顺利举办。

## 六、宣 传

2010 年，中国知识产权各相关部门组织开展了大量宣传工作，知识产权保护环境不断优化。

国家知识产权局精心组织了 2010 年全国知识产权宣传周活动。联合中宣部等 25 个部（委）成立宣传周活动组委会，通过举行启动仪式，召开新闻发布会等形式，在全国范围内开展以“创造·保护·发展”为主题的知识产权宣传普及。通过音视频、网络等多种媒体报道 28 万余条，全国各地共举办了 500 余项宣传活动，

参与人数达上千万，取得了较好宣传效果和社会反响。

围绕知识产权战略实施两周年、第四届中国专利周、第十二届中国专利奖颁奖大会、全国专利事业发展战略（2011 - 2020 年）发布、全国外商机构保护知识产权座谈会、知识产权与城市发展市长论坛等专项工作，国家知识产权局组织开展了专题宣传。全年共召开新闻发布会 9 次，播报新闻报道 2 500 余篇，网络媒体刊登或转载的有关报道上万条，有效提高了社会公众对知识产权的关注度。

国家工商行政管理总局以商标审查以及打击商标侵权假冒工作为重点，大力开展宣传活动，扩大影响力。12 月 9 日，在国务院新闻办公室举行的新闻发布会上发布了国家工商行政管理总局彻底解决商标审查及评审积压问题有关情况和全国工商系统积极开展打击侵权假冒专项行动进展情况，国内外反响良好。中央电视台 12 月 9 日《新闻联播》报道了我国商标注册申请量居世界首位的消息。《人民日报》12 月 10 日在要闻版对我国商标工作成就进行了报道。

4·26 全国知识产权宣传周活动期间，公布《中国商标战略年度发展报告》，发布了“商标侵权假冒典型案例”，在《中国工商报》推出“4·26 商标权保护特刊”。

国家工商行政管理总局与中国日报社共同主办为期半年的

“中国商标成就”宣传报道活动，在《中国日报》持续刊登“中国商标成就特刊”，并在中国日报网开设“中国商标成就专栏”，广泛宣传我国商标事业取得的成就；编辑出版《中国新闻·两会特刊》“地理标志专辑”，在《当代中国》开设“中国地理标志巡礼”专题栏目，指导《中国特产报》开设“地理标志和农产品商标专刊”，成功举办两届“全国中学生商标知识竞赛、地理标志征文活动”，启动拍摄《中国地理标志》专题片；继续做好中国商标网的改版工作及内容更新维护，中国商标网2010年点击量达到24.5亿次。

国家版权局举行了视频版权保护“百城联动——正版共赢计划”启动仪式；启动“绿书签行动2010——拒绝盗版，从我做起”版权保护系列宣传活动；与世界知识产权组织共同宣传被世界知识产权组织评为“优秀版权示范点”的南通家纺经验，合作开展“世界知识产权组织版权金奖（中国）”评选表彰活动；相继在青岛市和莱西市举办“全国青少年版权保护读书活动暨版权保护知识竞赛”颁奖典礼；在第17届北京国际图书博览会和第62届法兰克福书展期间继续设立中国版权服务站，编辑印制中英文版《中国版权服务指南手册》、举办英文版“中国版权概况”专场视频播放会；与中国人民大学开展“著作权法诞生百年暨新中国著作权法颁布20周年论坛”及出版中外版权文集活动。

文化部要求各地配合“4·26”世界知识产权日及宣传周，组织保护知识产权法制宣传活动，统一开展侵权盗版出版物销毁活动，提高公众知识产权保护意识。

农业部编写出版了《农业知识产权》，完成了《植物新品种保护教程》，推进农业知识产权走进大学课堂。组织省级农业部门发放10万份《致农民朋友公开信》和《致种子生产、经营户公开信》，提高广大农民对品种权的认知度。

国家林业局在全国知识产权宣传周活动期间开展了林业知识产权系列宣传活动，举行了林业植物新品种数据库运行启动仪式，对第一批26家林业知识产权试点单位进行了授牌，扩大林业知识产权保护社会影响。

海关总署在全国知识产权宣传周期间，通过发布《中国海关2009年知识产权保护状况》白皮书，评选“2009年中国海关保护知识产权十佳案例”，举办海关总署与企业知识产权保护对话会等方式，结合关区特点有针对性地开展宣传工作。

全国公安机关会同有关部门累计开展集中宣传活动377次，印发宣传资料64万份，向媒体提供稿件、发布预警信息256条。

最高人民法院在全国知识产权宣传周期间，将宣传活动与知识产权司法保护工作紧密结合起来，扩展了宣传形式，创新了宣传内容，赢得了社会广泛关注。积极办好“中国知识产权裁判文书网”

和最高人民法院网知识产权司法保护子网站，这两个网站成为人民法院司法保护知识产权成果的权威信息发布平台。最高人民法院始终高度重视知识产权审判的公开与透明，2010年首次发布《中国法院知识产权司法保护状况（2009年）》白皮书（中英文）；发布《最高人民法院知识产权案件年度报告（2009）》，总结出典型案例裁判文书中已经明确的44个典型法律适用问题，以年度报告的形式向社会集中公布；发布2009年度全国法院知识产权司法保护10大案件和50个典型案例。

最高人民检察院通过《检察日报》、正义网及其他媒体，及时宣传检察机关保护知识产权的工作情况和典型案例等。《检察日报》先后刊登多篇文章，介绍检察机关贯彻落实《国家知识产权战略纲要》的情况以及在打击侵犯知识产权违法犯罪方面发挥的作用。“全国打击侵犯知识产权和制售假冒伪劣商品专项行动”开展以来，《检察日报》开设了“检察机关打击侵犯知识产权和制售假冒伪劣商品专项行动”专栏，大力宣传检察机关批捕、起诉侵犯知识产权犯罪案件的情况和成果。

## 七、教育培训

2010年，知识产权教育培训工作积极推进，知识产权人才培

养机制不断完善。

国家知识产权局制定并发布了《知识产权人才“十二五”规划》。召开全国知识产权培训工作会议和交流会，对全国知识产权人才培训工作进行总结交流；制定了《国家知识产权培训基地管理办法》（试行），2010年，共批复成立了安徽、山东、湖北、上海、广东、江苏、重庆、陕西8家国家知识产权培训基地，并在湖南长沙组织召开了首次国家知识产权培训基地研讨班；构建了由国家知识产权专家库、国家知识产权百名高层次人才库和省级知识产权人才库组成的国家知识产权人才库，统筹规划人才的使用和管理，成立了国家知识产权专家咨询委员会；选派“百千万知识产权人才工程”百名高层次人才培养人选参加高层次人才法律和管理国内外培训班。

全国知识产权系统强化了知识产权人才培训工作的规划、组织和协调职能，形成了分级别、分层次、分类别的知识产权人才培训工作的良好格局。

2010年，国家知识产权局共举办培训班101期，培训3.8万人。国际培训班21个，增长16%，占全年培训班20%以上。中国知识产权远程教育平台分站新增4个，达到14个，增加40%。同时，涉外培训和教研工作继续深入，组织实施了卡多佐法学院来访团等10个国际培训项目，累计培训了124名外国审查员。

国家工商行政管理总局通过培训，全面提升商标战略组织实施工作水平。在广州市举办第二期商标战略暨亚运会标志保护培训班，培训各级干部 200 余人，进一步提高全系统组织实施商标战略的能力和水平，全力保障广州亚运会的顺利举办。

国家版权局举办了两期“版权相关热点问题媒体研讨班”、“版权工作专题研修班”及两期“版权经理人、代理人培训班”，分别对主要媒体、全国省会和中心城市版权局主管副局长及全国版权经理人、代理人进行了有针对性的培训；举办主题为“数字环境下的版权与贸易”的 2010 BIBF 北京国际版权贸易研讨班（第十届），推动数字环境下的版权贸易发展；在云南、新疆、北京举办了 3 期版权执法培训班，对基层版权、公安执法人员 450 余人进行了集中培训，有效提高了基层执法水平。

文化部面向行业内部，举办了互联网文化经营单位负责人培训班，以法制宣传教育为重点，提高经营者的知识产权保护意识。面向系统内部，大力加强文化市场综合执法培训工作，制定了《全国文化市场综合执法队伍培训规划（2011 - 2015 年）》，以建设一支“政治强、业务精、纪律严、作风正、形象好”的文化市场综合执法队伍为目标，创新培训形式，狠抓执法纪律和职业道德教育，全面提高文化市场知识产权保护能力和水平。整合地方培训资源，举办了 9 期专题培训班和 3 期网络文化市场执法案例分析会，

重点对知识产权保护工作进行专题培训。

农业部举办 8 期农产品地理标志核查员培训班，新注册核查员 899 人；组织了全国农业生物技术知识产权培训班、品种权代理人培训班等 15 个，培训人员近 950 人次。培训活动有力引导了农业企事业单位建立健全农业知识产权管理制度和组织机构，为农民专业合作社等各类农业机构向境外申请知识产权保护、开拓国际市场提供了服务。

国家林业局举办了林业知识产权保护与管理培训班，就《国家知识产权战略纲要》实施情况、林业知识产权保护与管理现状等内容对 26 家林业企事业试点单位的相关同志进行了培训；召开了油茶知识产权保护与管理座谈会，来自 14 个油茶种植省（区、市）林业厅（局）、林科院相关领导、负责同志以及从事油茶研究的专家参加了会议。

最高人民法院通过多种方式，切实加强知识产权法官队伍建设，促进了知识产权司法能力的提高。举办全国法院知识产权审判实务培训班，培训知识产权法官 200 余人；先后举办全国法院知识产权审判工作座谈会、商标授权确权案件法律适用研讨会等司法业务会议，研讨前沿问题，交流司法经验，促进共同提高；部分法院特别是案件压力较大的法院选拔了一批具有理工专业知识背景的人员从事知识产权审判，扩大了法官队伍，增强了审判力量。

最高人民法院加大对各地检察官的培训力度，举办了两期“知识产权培训班暨‘网上衔接，信息共享’经验推广会”，来自国内外的专家，分别围绕知识产权制度与经济社会发展、知识产权刑事保护等专题，结合案例进行了交流探讨。

## 八、国际合作

2010年，中国知识产权国际交流与合作范围进一步扩大，合作层级进一步提高，合作方式更为多样，合作内容更为具体，合作力度更为深入，中国知识产权保护的国际影响力日益提高。

国家知识产权局充分发挥涉外知识产权统筹协调职能，深度参与世界知识产权组织发展议程、《专利合作条约》改革等议题的磋商与谈判。在中美战略与经济对话、中美商贸联委会、中欧经贸高层对话等会议及双边自贸区谈判涉及知识产权的议题中发挥了积极作用。

2010年，国家工商行政管理总局开展了一系列商标领域多边及双边交流合作项目，共处理外事收发文295件，安排接待或参与接待来访团组42个，派遣出国28个团组35人次。多次派员参加世界知识产权组织、世界贸易组织、亚太经合组织的多边会议和中国-澳大利亚、中国-俄罗斯、中国-瑞士等双边会议或谈判；加

强了与美国、欧盟、英国、日本、朝鲜、泰国等国家和地区商标主管机关的交流合作。与世界知识产权组织签署了《中华人民共和国国家工商行政管理总局和世界知识产权组织关于进一步加强合作的谅解备忘录》。与美方共同举办了中美日欧商标申请中的新问题研讨会，派员参加了赴美国自动化考察；开展了中欧知识产权保护二期项目下的进一步合作，参加了中欧地理标志协议第一次会议、第六次中欧知识产权对话；参加了第二次中日知识产权工作组会议、中日仿冒技术层工作组会议、中日恳谈会议等；与法国工业产权局、英国知识产权局共同举办的研讨会，交流了商标体系、制度及知识产权保护等问题；积极组团或派人参加其他单位团组，先后赴德国、罗马尼亚、日本、捷克、欧盟等国家考察宣讲；在上海世博会上被授予“西班牙品牌在中国的友好使者”称号。

2010年，国家版权局积极参与世界知识产权组织有关国际重大版权问题的磋商和版权新条约的制定，加强与国际组织的合作，与世界知识产权组织在京共同举办第四届国际版权论坛以及全球原创金曲演唱会暨版权金奖（中国）颁奖典礼；组织世界知识产权组织南通示范点调研项目成果全球发布会及报告首发式，并积极推进世界知识产权组织在华继续设立版权保护优秀案例示范点。着重做好中美、中英、中欧、中日、中韩等重要双边关系的沟通磋商工作，积极拓展其他双边关系，营造良好的对外知识产权环境。与英

国知识产权局签署《中华人民共和国国家版权局和英国知识产权局版权战略合作协议》；与日本文化厅签署了《中华人民共和国国家版权局与日本国文化厅版权战略合作备忘录》（部长级）；积极参与中澳、中哥自由贸易区谈判及中俄经贸分委会知识产权工作组会议准备工作。

农业部积极做好东亚植物新品种保护论坛秘书处工作，组织召开植物新品种保护与农民权益国际研讨会，研究平衡资源提供者、育种者、生产者和经营者利益的办法；积极参与国际植物新品种保护联盟等国际组织活动；加强中荷、中德、中日植物新品种保护双边合作，实施“中国－欧盟农产品地理标志合作项目”，参与中欧、中瑞知识产权工作组有关会议。

国家林业局认真履行《国际植物新品种保护公约》，积极派员参加《国际植物新品种保护公约》理事会会议，承担3项国际测试指南编制工作；积极推动东亚植物新品种保护论坛工作，参与举办东亚植物新品种保护与农民权利研讨会；参加在韩国举办的论坛第三次会议，加强中荷植物新品种保护合作，认真组织实施合作项目。

中国海关继续保持与美、日、韩等国海关在已签署文件框架下开展的执法合作，并进一步加强与其他国家、地区海关的合作。2010年11月与俄罗斯海关总署签订《中俄海关关于加强知识产权

边境执法合作的备忘录》，2010年12月与欧盟海关签订《〈中欧海关知识产权合作行动计划〉延期文件》。

公安部积极拓展合作领域，深化国际执法合作。与来华访问的美国司法部部长举行会谈，就深化知识产权保护合作进行富有成效的交流；通过与美国国土安全部移民海关执法局共同签订《合作意向书》，深入推进中美执法合作渠道；会同有关国家联合侦办跨国制售假烟案，开展打击制售假药“风暴”联合执法行动，并积极赴外参加国际执法会议等执法交流活动，多次在具有国际影响力的世界论坛上阐明中国政府和公安机关打击侵犯知识产权犯罪的坚定立场和态度。

最高人民法院、最高人民检察院注重加强国际合作与交流，提升中国知识产权司法保护国际影响力。积极派员参加中欧知识产权工作组、中欧知识产权二期合作项目，中瑞、中巴、中日知识产权工作组、中美商贸联委会等会议。最高人民法院组织法官代表团赴欧美有关国家，最高人民检察院组织检察官代表团赴欧洲有关国家，考察并交流知识产权司法保护经验。

# **China's Intellectual Property Protection in 2010**

**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. )

# Contents

I. Legislation .....	2
II. Examination and Registration .....	5
III. Enforcement .....	10
IV. Construction of Mechanism and Capability .....	23
V. IPR Special Campaigns for the Shanghai World	
Expo and the Guangzhou Asian Games .....	30
VI. Publicity .....	35
VII. Education and Training .....	41
VIII. International Cooperation .....	45

# China's Intellectual Property Protection in 2010

The year of 2010 was the closing chapter for the 11<sup>th</sup> Five-year Plan and 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 stuck to the independent innovation program with Chinese characteristics and strengthened the implementation of the national IP strategy. To implement the overall arrangements by *Outline of National Intellectual Strategy*, relevant ministries in charge of IP protection in China have been strengthening work base and effectively promoting various IP protection from legislation, examination and registration, enforcement, construction of mechanism and capabilities, publicity, education and training, international exchange in line with concrete arrangements by *China's Action plan on Intellectual Protection 2010* and principles of “improving system, strengthening enforcement, emphasizing special campaigns, promoting coordination, enhancing publicity, and regulating administration”. Remarkable achievements have been made in 2010.

## I. Legislation

In 2010, regular IP legislations were made according to the needs of economic and social development with the outcome of steadily improved IP laws, regulations, rules and relevant regulatory documents.

Patent system has been improved with the completion of the 3rd revision of *Patent Law*. The amended *Implementing Regulations of the Patent Law* came into force on February 1, 2010. The amended *Patent Law* and *Implementing Regulations of the Patent Law* prescribed stricter conditions to patent granting, improved examination system for patents for design and compulsory license system, added system of preservation of evidence in proceedings, supplemented measures to protect public interests, and strengthen patent protection. In the meantime, 12 regulations like *Measures on Patent Administrative Enforcement* and *Guidelines for Patent Examination* were formulated and revised. In particular, *Measures on Patent Administrative Enforcement* was revised to settle the pressing issues in patent administrative enforcement practices, further standardize the enforcements, and strengthen patent protection.

The revision of *Trademark Law* was pushed forward continuously. In 2009, State Administration for Industry and Commerce (SAIC) submitted the *Trademark*

*Law* (revised for review) to the State Council. By now, SAIC has finished soliciting public comments from all walks of life and is conducting discussion and study on core issues. At the same time, the revision of supplementary laws and regulations like *Implementation Regulations on Trademark Law* are being advanced steadily.

The freshly amended *Copyright Law* was published on February 26, 2010 and came into force on April 1, 2010. The *Measures on the Registration of Copyright Pledge* was published on November 25, 2010. Revision and formulation of a series of laws, regulations, and rules were also advanced remarkably, such as *Protection Regulations on Copyrights of Folklore*, *Regulations on Voluntary Registration of Works*, *Regulations on Legal Payment for Textbook*.

The *Regulations of the People's Republic of China on Customs Protection of Intellectual Property Rights* came into force from April 1, 2010.

Ministry of Agriculture (MOA) published *The 8<sup>th</sup> Protection List of Agricultural Varieties of Plants* and organized the revision and formulation of a series of regulations, like *Regulations on Settling Infringement Cases Involving New Agricultural Varieties of Plants*, *Examination Regulations of Reexamination Board of New Varieties of Plants of The Ministry of Agriculture* and the *Naming Regulations on Agricultural Varieties of Plants*. Also, MOA drafted *Administration Regulations on Registering Ownership of Agricultural Genetic Resources* (draft) and formulated

*Provisional Regulations on Applying for Varieties of Plants in Mainland by Applicants from Taiwan Area* (in collaboration with the State Forestry Administration) as well as the *Technical Specifications on Quality Control of Geographical Indications of Agricultural Produces* (editing guidance).

In consideration of characteristics of various IPRs and protection needs, Supreme People's Court (SPC) formulated and published regulatory documents to standardize and unify trial of IP cases. In April, it constituted and published *Opinions of the Supreme People's Court on Issues Involving Trial of Administrative Cases Concerning Decisions on Ownership of Trademark*. It represented the first normative document which provided guiding rules on judicial review standards for administrative cases involving decisions on ownership of trademark granting. In November, it launched the *Circular on Trial of Copyright Disputes Involving Internet Bar*, which was intended to specify the trial principles and standards relating to pressing copyright issues involving Internet bars. The drafting of judicial interpretation for civil cases involving monopoly disputes was steadily advanced and initial version was developed for discussion. In addition, SPC assessed and reviewed cases involving recognition of well-known trademarks and formulated specific judicial regulations.

## II. Examination and Registration

2010 witnessed the steady advances in IPR examination and registration and new breakthroughs in terms of quality and quantity.

In 2010, State Intellectual Property Office (SIPO) accepted 1,222,286 patent applications in total, exceeding 1 million for the first time and a year-on-year increase of 25.1%. Among them, 1,109,428 were from home, representing 90.8% of the total and a year-on-year increase of 26.4%; 112,858 of which were from abroad, representing 9.2% of the total and a year-on-year increase of 13.9%. Among them, 391,177 were invention patents, representing 32.0% of the total and a year-on-year increase of 24.4%; 409,900 of which were utility model patents, representing 33.5% of the total and a year-on-year increase of 31.9%; 421,273 of which were industrial design patents, representing 34.5% of the total and a year-on-year increase of 19.9%.

In 2010, SIPO granted 814,825 patents, a year-on-year increase of 40.0%; among which, 740,620 were granted to domestic applications, representing 90.9% of the total and a year-on-year increase of 47.6%; 74,205 were granted to foreign applications, representing 9.1% of the total and a year-on-year decrease of 7.5%. 135,110 invention patents were granted, representing 16.6% and a year-on-year

increase of 5.2% . 344,472 utility model patents were granted, representing 42.3% of the total and a year-on-year increase of 69.0% ; 335,243 industrial design patents were granted, representing 41.1% of the total and a year-on-year increase of 34.3% .

In 2010, SIPO received a total number of 12,917 international applications under PCT, a year-on-year increase of 61.5% . 62,558 international applications entered into China's national phase, a year-on-year increase of 16.6% , including 62,317 invention patent applications and 241 utility model patent applications.

In 2010, Patent Reexamination Board of SIPO accepted 12,369 requests for re-examination, up 3,174 compared with that in 2009 and a year-on-year increase of 34.5% . As many as 2,411 requests for invalidation were accepted, up 164 compared with that in 2009 and a year-on-year increase of 7.3% .

In 2010, SIPO accepted 1,108 applications for registration of layout designs of integrated circuits, and 1,009 registrations were announced with certificates.

SIPO recorded a rapidly increasing number of 9,771 patent licensing contracts. Also, it licensed 18,540 patents, registered 362 patent pledge contracts worth of 6,596,960,000 yuan.

In 2010, SAIC accepted 1,072,087 trademark applications, exceeding one million and ranking No.1 in the world for nine consecutive years. 1,480,680 trademark applications in total were examined. The duration of examination was re-

duced to within one year from 36 months and backlog in trademark examination was settled at last two months before the deadline. There were 48,930 applications for opposition, a year-on-year increase of 24.07% ; 32,447 applications for opposition were closed, a year-on-year increase of 29.68% . In 2010, SAIC accepted 78,016 applications for trademark renewal, among which 68,141 were settled; 127,995 applications for trademark registration change, among which 111,381 were handled; 86,182 applications for trademark transfer, among which 84,966 were dealt with; 20,524 applications for recording of trademark licensing contract, among which 24,554 were finished; 2,120 special signs and 4 official signs were recorded. By the end of 2010, there were of 8,295,000 trademark applications, 5,628,000 registered trademarks and 4,604,000 valid registered trademarks in total in China, all ranking first in the world. SAIC accepted 382 applications for geographical indications with 269 registered and preexamined. By the end of 2010, an accumulative number of 1,040 geographical indication trademarks were approved for registration and preexamination. An aggregate of 951,200 trademarks for agricultural produces were approved and registered.

In 2010, SAIC accepted 16,142 territorial extension applications of Madrid international registration for trademarks from International Bureau of WIPO and Chinese nationals filed 1,820 applications of Madrid international registration for trademarks through TMO. By the end of 2010, there was an accumulative number

of 154,302 valid trademarks of Madrid international registration designating China for territorial extension, which made China the No. 1 for six consecutive years. Chinese nationals filed accumulatively 11,427 applications of Madrid international registrations for trademarks, which made China rank No. 1 in developing countries.

In 2010, SAIC accepted 72,253 new applications for trademark review in total, a year-on-year increase of 24.9%. Among them, 61,920 cases were rejected for retrial, a year-on-year increase of 22.4%; 10,333 complex cases involved disputes or opposition for reexamination, a year-on-year increase of 41.8%. A total number of 39,220 cases involving trademark review were examined, a year-on-year increase of 9%. Among them, 29,985 reexamination cases were reviewed and rejected, a year-on-year increase of 9.8%. 9,235 cases concerned disputes and opposition for reexamination were reviewed, a year-on-year increase of 9.8%. 103 applications for administrative reconsideration were filed to settle the disputes involving registration proceeding of trademark, a year-on-year increase of 22.6%.

China has been maintaining rapid growth in copyright registration for five consecutive years, with a total number of 81,966 pieces of copyright registered in 2010. The total volume of registered copyrights in China grows from more than 20,000 pieces in 2006 to more than 80,000 pieces thorough the 11<sup>th</sup> Five-year

Plan, increasing by three times with an annual growth rate of 37%. There is an accumulative number of 240,000 pieces of registered copyrights in five years, four times the number in the 10<sup>th</sup> Five-year Plan. The aggregate volumes of registered voluntary work, copyright contract, and copyright pledge contract grow year by year, reaching 375,649, 502, and 77 respectively in 2010.

MOA and State Forestry Administration (SFA) further strengthened the protection of new varieties of plants in 2010. MOA accepted a total number of 1,206 applications for new varieties of plants from both home and abroad, reaching historic high, including 116 international applications, an increase of 11.5% compared with that in 2009. The annual application volume ranked No.4 among members of International Union for the Protection of New Varieties of Plants (UPOV). MOA also optimized the process of examining and testing the application of plant variety rights, granting 666 pieces of plant variety right, an increase of 34.8% compared with that in 2009. MOA also accepted 25 requests for reexamining various new varieties of plants and closed 25 cases, five times that in 2009. By December 31, 2010, there were 7,761 applications for new plant variety rights from both home and abroad in total with 4,214 applications closed and 3,473 granted. The registration of geographical indication for agricultural products was also accelerated. 334 new geographical indications for agricultural product in total were announced and issued certificates in 2010, adding the total number to 536 by the end of

December of 2010. SAF accepted 89 applications for new variety rights, preexamining 95 such applications, examining 38 such applications substantively and granting 26 new varieties of plants in 2010. The application and granting numbers of the 11<sup>th</sup> Five-year Plan period increased by 81% and 115% respectively than the previous five years.

In 2010, the recordation of customs IP protection maintained steady growth. By the end of 2010, GAC had examined and approved 20,194 applications for recordation in total, including 3,035 new applications.

### **III. Enforcement**

#### **1. Special campaign**

In 2010, IP-related ministries in China further integrated IP enforcement in line with respective functions by improving enforcement mechanisms and strengthening enforcement.

To strengthen the IP protection and maintain a fair and orderly market, the State Council of China launched the nationwide Special Campaign against IPR Infringements and Production and Sales of Counterfeited and Forged Commodities (Hereinafter referred to as the Special Campaign) from October 2010 to March 2011. The Special Campaign primarily targeted manufacturing hubs, commodity distribu-

tion centers, key regions of rampant IP infringements, production and sales of counterfeited and forged commodities, key fields like press and publishing, culture and entertainment, new and high technology industry, and agriculture, infringements in key commodities like books, audio and video products, software, bulk exporting commodities, auto spare parts, mobile phones, drugs and seeds, etc.

During the Special Campaign, various regions and departments took active measures and implemented action plans to drive the Special Campaign smoothly with remarkable achievements.

SIPO issued several documents relating to the Special Campaign, like *Circular on Printing and Distributing Action Plan for Special Campaign by IP Administrations* and *Circular on Further Paying Close Attention to the Implementation of Task Assignments in Special Campaign* and *Circular on Strengthening Service for Settlement of Reporting and Complaints by IPR Assistance Centers*. Also, SIPO strengthened the crackdown on massive and repeated patent infringements, patent counterfeiting as well as the construction of IPR assistance centers and their settlement of reporting and complaints work.

IP administrations across China dramatically intensified the patent enforcement with remarkable growth of settlement of patent cases since the implementation of the Special Campaign. From October to December of 2010, 805 patent cases were settled in total, 44.16% of the yearly amount, among which 458 cases were pa-

tent disputes, a year-on-year increase of 99.13% ; 347 cases involved counterfeiting patents, a year-on-year increase of 101.74% . As many as 7,044 person times of enforcement officials were dispatched, a year-on-year increase of 102.59% ; 2,568 business premises were inspected, a year-on-year increase of 96.78% ; 732,073 pieces of goods were checked, a year-on-year increase of 89.02% ; 478 cross-region enforcement actions were launched, a year-on-year increase of 419.57% . Patent infringements and counterfeiting were severely punished.

Administrations for Industry and Commerce (AICs) at all levels across China actively implemented the Special Campaign. By January 7, 2011, a total number of 722,350 person times of enforcement officials were dispatched and 1,694,779 business entities as well as 108,213 wholesale and retail markets and fairs were inspected. 1,372 businesses manufacturing or selling counterfeiting commodities were raided. 16,036 infringement or counterfeiting cases were investigated, including 2,525 involving infringements of well-known trademarks, 2,439 involving exclusive rights of international trademarks and 242 involving exclusive rights of geographical indication trademarks. 91 cases involving sales of fakes via Internet were investigated and settled. 17,397 pieces of complaint and reporting from consumers were accepted and 73,842,010 yuan were reclaimed.

Focusing on the Special Campaign, copyright administrations nationwide focused on regulating upstream printing and copying businesses, publication market,

and combating online infringements and piracy as well as strengthened administrative enforcement and market supervision. By now, initial results were achieved in investigating and cracking major cases with conclusion of 5 cases and 34 cases entered judicial process (55 cases under supervision in total). The inspection and correction involving the application of legal software among governments were steadily advanced. 31 central governmental agencies and municipal and district agencies in Qingdao completed the task. Also, the application of legal software among enterprises was actively promoted and 1,621 enterprises inspected reached this goal.

GAC prepared specific implementing programs for the Special Campaign. By the end of February, 2011, China Customs detained around 7,389 batches of cargo, involving 44,070,000 pieces of infringing goods valued at 103,000,000 yuan.

Ministry of Public Security (MPS) launched the Operation Strike of the Sword in line with the Special Campaign. By the end of 2010, public security departments nationwide uncovered 2,049 cases involving IPR infringements and counterfeits worth 2,307,000,000 yuan, captured 4,157 suspects, arrested 930 criminals, raided 916 fake-manufacturing businesses, and wiped out 417 wholesale gangs engaged in selling infringing and counterfeiting goods. 306 major cases valued at over one million yuan each were uncovered, a year-on-year increase of

300% . During the Operation Strike of the Sword, public security departments nationwide cracked a series of major cases, like 7.16 fake medicine case in Beijing, printer consumable case involving HP and Canon by Zhang in Jiangxi province, counterfeited women and infant necessity case by Yuan in Shandong province, distribution of fake acoustics equipments via Internet case by Ao in Guangdong province, etc. To ensure rigorous and thorough investigation, MPS sorted out 50 major cases as the first batch of cases under direct supervision and assigned them to local public security departments nationwide as the chief concerns.

## **2. Regular enforcements**

In line with respective functions, IP-related departments strengthened regular enforcement to vigorously advance IPR protection while combating IPR infringements and counterfeits through implementing the Special Campaign.

In 2010, SIPO issued a host of documents to deploy, guide, and push nationwide enforcement, like *Arrangement of Enforcement Activities among Intellectual Property Administrations across the Nation in 2010* and the *Guideline on Patent Administrative Enforcement*. Intellectual property administrations nationwide effectively restrained the massive and repeated patent infringements as well as patent frauds, deterred criminals, and created favorable conditions for innovation and development through launching special campaigns for IPR enforcement like Thunderstorm and Skynet.

In 2010, local IP administrations across the country received a total of 1,095 patent disputes concerning infringement and 18 of other types. 728 cases relating to counterfeiting patents were investigated and dealt with. In those actions, 20,646 person times of enforcement officials were dispatched; 10,642 business premises were inspected; and 2,134,668 pieces of goods were checked; 545 trans-department joint enforcement actions were organized and 972 cross-region enforcement actions were launched.

Centering on the protection of exclusive rights of registered trademarks, the administrations for industry and commerce (AICs) at all levels across China intensified administrative enforcement for trademarks and severely punished trademark infringements and counterfeiting by strengthening verification and protection of well-known trademarks, giving priority to crackdown on crimes relating to infringements of trademarks of foods, medicines and agricultural products as well as exclusive rights of well-known trademarks, geographical indications, and foreign-related trademarks. AICs at all levels across China investigated and dealt with 56,034 cases of trademark violations, among which 7,486 were general violations of trademark, and 48,548 were related to trademark infringement and counterfeiting, 11,524 foreign-related trademark cases were investigated and handled. AICs seized and removed 12,752,200 illegal trademark labels valued at 1,405,610,000 yuan, handed over 175 cases and 163 suspects to judicial authorities for suspected

trademark criminal violations. The protection of 2,310 trademarks was extended via verification as the well-known trademarks. Among them, 114 trademarks belonged to foreign nationals which were from 16 countries and regions. The legal rights of trademark owners from both home and abroad were effectively protected.

National Copyright Administration of China (NCAC) intensified administrative enforcement by launching special campaign Swordnet to crack down the internet infringement and piracy in 2010. Local copyright enforcement authorities investigated and dealt with 204 cases involving copyright infringement in the first stage of the special campaign, such as Music Online and Cui Wei Ju. 157 cases are being investigated and 30 cases suspected of criminal offence were transferred to public security department, like Jiangsu China Wide Band. Moreover, NCAC strengthened proactive supervision and regulation with real-time monitoring of video broadcastings from 15 major websites, like UUSee and Verycd.

Ministry of Culture (MOC) successively issued *Circular of Rectifying Online Music Market Order and Illegal Activities of Online Music Websites by the Department of Cultural Market of the Ministry of Culture*, *Circular of Concentrated Rectification of Illegal Online Music Websites by the Department of General Affairs of the Ministry of Culture*, *Circular of Inspecting and Handling Illegal Animation and Cartoon Products by the Department of Cultural Market of the Ministry of Culture* and other documents. Special actions were carried out to strengthen the inspection

of infringing and pirated audio and video products, books and periodicals, online games, online music, and animation and cartoon products and strictly prohibited the storing, placing and selling of infringing and pirated products. Also, MOC effectively restrained the infringements and purified cultural market by cracking down a number of major cases relating to culture market in Ningbo and other regions.

In 2010, culture administrations and general enforcement authorities of culture market in the whole country dispatched a total of 8,145,206 person times of enforcement officials, ordered 131,681 businesses to rectify their wrong doings, received 47,816 reports, initiated 60,132 investigations, transferred 2,184 cases to other authorities, finished 51,248 cases, warned 120,984 businesses, imposed a total fine of 148,770,000 yuan, confiscated 1,860,000 yuan of illegal income, seized a total of 28,100,000 pieces of illegal goods, shut down 12,378 businesses to rectify their wrong doings, withdrew 426 license permits.

In 2010, MOA attached great importance to IP enforcement. It strengthened source supervision and enhanced enforcement effectiveness by focusing on production process and production source of seeds. MOA combated infringing and fake seeds by selecting 1,330 seed samples for identification from 23 provinces (autonomous region, municipality). From October, 2010, MOA canceled business licenses of 5 enterprises which produced and sold infringing and fake seeds. Local

agricultural administrations investigated and settled 37 cases of infringing variety rights and producing and selling fake and shoddy seeds of 350,000 kilograms worth of over 5,000,000 yuan. Infringers paid back 127,000 yuan for owners of variety rights. MOA also strengthened the administration of production license of licensed seeds. To further strengthen administrative enforcement, MOA selected 11 major grain-producing provinces as pilot regions to conduct variety right enforcement.

State Forestry Administration (SFA) centered on the quality supervision of forest germchit as core enforcement task. To effectively strengthen the IP protection for new forestry varieties, SFA organized 4 state quality inspection centers for germchit selectively checked the quality of germchit planted in key forestation projects in 19 provinces (autonomous regions, and municipalities), focusing on business permits, application of tagging system and source of tree seeds.

GAC actually detained 20,300 batches of cargoes suspicious of infringement, with a total value of 250,000,000 yuan and 110,000,000 pieces of goods. 99.5% of the detainment was carried out by GAC in line with relevant functions, namely 20,138 batches.

### **3. Judicial protection of IPR**

2010 witnessed the effective judicial protection of IP thanks to the overall attention and stronger efforts by national judicial authorities.

In 2010, soaring number of IPR civil cases were received by people's courts, which represented the central role of IPR civil trial in IPR judicial protection. In 2010, people's courts nationwide received 42,931 first-instance IPR civil cases and concluded 41,718 ones, year-on-year increases of 40.18% and 36.74% respectively. Among them, there were 5,785 patent cases, a year-on-year increase of 30.82%; 8,460 trademark cases, a year-on-year increase of 22.5%; 24,719 copyright cases, a year-on-year increase of 61.54%; 670 technology contract cases, a year-on-year decrease of 10.31%; 1,131 unfair competition cases (including 33 first-instance monopoly civil cases), a year-on-year decrease of 11.78%; 1,966 other types of IPR cases, a year-on-year increase of 14.17%. The courts concluded 1,369 first-instance IPR civil cases involving foreign parties, a year-on-year increase of 0.59%; 278 first-instance IPR civil cases involving parties from Hong Kong, Macao and Taiwan, a year-on-year decrease of 21.25%. 23 first-instance monopoly civil cases were concluded. In 2010, people's courts received 6,522 second-instance IPR civil cases and concluded 6,481 ones, year-on-year increase of 22.13% and 18.01% respectively; received 111 retrial cases and concluded 109 ones, year-on-year increases of 11% and 1.87% respectively. In 2010, SPC received 313 IPR civil cases and concluded 317 ones (including those from previous years), among which 198 retrial IPR civil cases were received and 206 ones (including those from previous years) 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 85.04% in 2009 to 86.39% in 2010. The retrial rate dropped from 0.33% in 2009 to 0.27% in 2010, while the retrial rate of remanded appellate case dropped from 6% in 2009 to 4.57% in 2010. Mediation of IPR lawsuits achieved great results. In 2010, the average withdrawing rate of first-instance IPR civil cases through mediation by local courts reached 66.76%, a year-on-year increase of 5.68%. The rate of first-instance civil cases concluded by national people's courts within trial deadline increased from 97.38% in 2009 to 97.93% in 2010. The conclusion rate by the IP Tribunals under SPC reached 87.33% in 2010.

In 2010, local courts concluded 3,942 IPR criminal cases relating to IPR infringement and sentenced 6,001 suspects, 6,000 of which were found guilty. Among the cases concluded, 1,254 were sentenced on the account of criminal violation of IPRs, among which 1,966 suspects were found guilty, year-on-year increases of 24.53% and 22.49% respectively; 609 cases were sentenced on the account of manufacturing and distributing of goods in inferior quality (involving IPR infringement), among which 926 suspects were found guilty; 2,054 cases were sentenced on the account of illegal business operation (involving IPR infringement), among which 3,068 suspects were found guilty; 25 cases were sentenced on the

account of other crimes (involving IPR violation), among which 41 suspects were found guilty. As far as the cases sentenced for IPR infringements, 585 cases were sentenced on the account of counterfeiting registered trademarks, among which 1,028 suspects were found guilty. 345 cases were sentenced on the account of selling commodities with counterfeiting registered trademarks, among which 459 suspects were found guilty. 182 cases were sentenced on the account of illegally manufacturing and selling illegally manufactured trademark signs, among which 253 suspects were found guilty. 2 cases were sentenced on the account of counterfeiting patent, among which 3 suspects were found guilty. 85 cases were sentenced on the account of infringing copyright, among which 142 suspects were found guilty. 5 cases were sentenced on the account of selling infringing duplicates, among which 10 suspects were found guilty. 50 cases were sentenced on the account of trade secret misappropriation, among which 71 suspects were found guilty.

In 2010, local people's courts received 2,590 first-instance IPR administrative cases and concluded 2,391 ones. Among them, there were 551 patent cases, a year-on-year decrease of 17.51% ; 2,026 trademark cases, a year-on-year increase of 47.23% ; 2 copyright cases, a year-on-year decrease of 50% ; and 11 other types of cases. SPC accepted 60 and concluded 56 IPR administrative cases.

In 2010, procuratorate agencies nationwide seriously fulfilled the functions of le-

gal supervision like approval of arrest and prosecution and fought against IPR criminal violations. In 2010, the procuratorate agencies nationwide accepted 1,887 arrest approval applications relating to IPR criminal cases with 3,368 suspects involved in, up by 26.5% and 26.3% respectively compared with the numbers in 2009. They also approved arrest of 2,613 suspects in 1,566 cases, up by 24.7% and 23.3% respectively compared with the numbers in 2009. In 2010, procuratorate agencies nationwide accepted 4,122 suspects in 2,207 IPR criminal cases transferred from other administrative authorities for examination and prosecution, up by 14.3% and 17.2% respectively compared with the numbers in 2009; prosecuted 3,066 suspects in 1,697 cases, up by 10.6% and 13.8% respectively compared with the numbers in 2009.

Procuratorate agencies gave a full play of legal supervision so as to correct some ineffective enforcement actions in combating IPR criminal violations. In collaboration with MPS and other relevant ministries, procuratorate agencies launched a nationwide special campaign that supervised the transfer of suspected criminal cases by administrative enforcement agencies, which facilitated the standardization of transfer of local cases and the linkages between administrative and criminal enforcements. Procuratorate agencies strengthened the examination on the copies of *Decisions on Administrative Punishment* relating to IPR cases transferred by administrative enforcement authorities, gave suggestions on transferring cases relating to

IPR criminal violations to public security departments on time, and supervised 31 case investigations by public security departments, up by 40.9% compared with the numbers in 2009. Procuratorate agencies paid attention to finding the clues of duty crime in malfeasance of government employees relating to IPR criminal crimes and seriously prosecuted those suspicious criminals according to laws.

In 2010, MPS always gave priority to crackdown on criminal cases, constantly intensified criminal enforcement, and kept high pressure on combating various IPR infringement crimes. Also, MPS, along with SPC and SPP, collectively constituted *Opinions on Several Issues Concerning the Applicable Law in the Handling of Intellectual Property Criminal Cases* after nearly 3 years in-depth study and investigation, which laid a sound legal base for public security departments to combat IPR crimes. To enhance the professional quality and investigation capability of public security departments nationwide, MPS systematically compiled *Technique Collection of Combating IPR Crimes*.

#### **IV. Construction of Mechanism and Capability**

In 2010, relevant agencies for IPR protection in China made new achievements in the construction of mechanism and capability by innovating working approach.

Centering on key issues in developing intellectual property and giving full play

of organizing and coordinating, SIPO, jointly with 28 member agencies under the trans-ministerial joint meeting mechanism for implementing the national intellectual property strategy, issued *China's Action Plan on Intellectual Property Protection* for two consecutive years. To strengthen the communication with IPR owners, SIPO held IP Protection Symposium of Foreign Invested Institutions for three consecutive years and IP Protection Symposium of Domestic Enterprises. Trans-provincial patent enforcement mechanisms have been consolidated based on nationwide patent enforcement cooperation system, involving provinces in Zhujiang River Delta, Yangtze River Delta, and Bohai Rim area as well as 16 provinces (municipalities) in middle China, 12 provinces (municipalities) in western China and 3 provinces in north-eastern China. Also, enforcement cooperation mechanisms within some provinces like Guangdong, Sichuan, Henan, and Hunan are being improved.

By the end of 2010, a total number of 55 local IP offices were included in the “5 · 26” project and 38 judicial agencies, research institutes, and legal service agencies were listed as the important national patent protection liaison bases. A nationwide network for IP protection, assistance, reporting and complaining is being developed with the establishment of 71 IPR assistance centers and the operation of IPR assistance service telephone line “12330”.

SAIC studied and established 53 state trademark strategy demonstration cities

(regions) and 41 demonstration enterprises and promoted the signing of Wuhu Proclamation by 41 enterprises. SAIC also strengthened the overseas protection of Chinese trademarks by establishing overseas protection mechanism and closely cooperating with international counterparts. Two cases relating to malicious registering of Chinese well-know trademarks were successfully settled, involving the collective trademarks of Zhenjiang spice vinegar in Korea and Confucian Institute in Costa Rica. SAIC also actively explored new approach to case settlement via mediation and reconciliation. It vigorously reduced the backlog in trademark review and the examination duration. In the meantime, SAIC applied relevant laws accurately and strengthened the interpretation of laws while introducing mediation and reconciliation when appropriate, which led to unification of legal and social effects.

NCAC further regulated the business of collective management of copyright and supported the central copyright related associations and the regions with favorable conditions to tentatively establish copyright mediation mechanism. NCAC further promoted the development of copyright demonstration cities nationwide by awarding Chengdu as the National Copyright Demonstration City and approved the application for this title from Xiamen, Suzhou, Kunshan. As to copyright enforcement was concerned, NCAC creatively promoted collaborated protection and cooperation mechanism with other regions by signing Cooperative Arrangement against

Online Piracy with the Customs of Hong Kong and initiating copyright coordination mechanism with intellectual property agency of Taiwan area for the follow up arrangements of the Across-straits Agreement on the Protection of IPR. Also, NCAC enhanced the direction and effectiveness in regional copyright enforcement by establishing cooperation and settlement mechanisms in Yangtze River Delta, Guangdong, Hong Kong, and Macao.

MOA held the fourth Forum on Agricultural IP to mobilize the society to study policy, issues, and resolutions regarding agricultural IP. Also, it organized the research on standard of DNA identification by fingerprint of 8 major main crops. It studied and established plan on technological supporting framework for agricultural new varieties, newly set up and expanded a number of preservation tanks (gardens) for seeds and germchit of new varieties of plants as well as some testing and appraising agencies for new varieties of plants. MOA also finished establishing information platform framework for agricultural IP.

SFA energetically explored approach to IPR enforcement in forestry in line with development characteristics and actual conditions in forestry. It established and improved protection and testing system for new varieties of plants with the initial establishment of 2 branch centers and 2 professional testing stations. It organized the compilation of testing guide for 70 new varieties of plants of forestry and examined and approved 21 testing guides including one for apricot. These guides had been

incorporated into national or industrial standards and published for implementation. SFA actively developed public information service platform for forest IP information and pilot ran [www.cfip.cn](http://www.cfip.cn). Moreover, SFA strengthened the development of databank relating to forest IP, focusing on improvement and development of 10 basic databanks for IP in forestry, such as resource navigation for IP in forestry, forest patents, forest new varieties of plants rights, software copyrights, forest geographical indications, forest IP trend, forest IP literature, and forest IP laws and regulations. Over 300,000 pieces of information were recorded into the databanks.

GAC incorporated active and passive measures in enforcements. During supervision, GAC conducted active investigation into exporting and importing cargo suspected of infringing recorded IPR or articles carried by individuals or by post suspected of IP infringement. IPR holders can apply for detaining the commodities with recorded IPR or not by customs as long as they were regarded as infringing IPR.

Collaborating with other relevant departments, MPS actively studied and optimized the mechanism linking criminal and administrative enforcements in 2010. An initial mechanism combining “active investigation” by public security departments and “spot control” by administrative departments to develop a new cooperation model of “information sharing, proactive involvement, joint action, complementary of advantages” came into being. According to statistics, public security

departments nationwide accepted 754 cases transferred from administrative enforcement authorities, a year-on-year increase of 52.9% which demonstrated the effectiveness of new mechanism. MPS also actively promoted the coordination and cooperation with IPR holders in enterprises by establishing cooperated IPR protection mechanism between police and enterprises and rapid acceptance channel for reporting.

SPC strengthened the consciousness for judicial reform in IPR trial and further optimized the IP trial system by introducing a number of measures to push the reform and improvement relating to IP trial system and working mechanism. 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 steadily carried out. By the end of December 2010, 5 higher people's courts, 49 intermediate people's courts, and 42 primary people's courts had carried out such pilots. In the meantime, innovation in IP trial system was constantly advanced by SPC. In April, 2010, SPC signed cooperation memorandum on IP judicial protection with China Association for Science and Technology and established special expert tank for science and technology consulting accordingly. 11 academicians of the Chinese Academy of Sciences and Chinese Academy of Engineering were engaged as the consulting experts of science and technology for SPC, including Zhong Nanshan and Yuan Longpin. This represented a higher stage of improving settlement mech-

anism for IP disputes and promoting the IP judicial protection.

In 2010, SPC continued to improve the jurisdiction over IPR cases and further optimized the trial resource layout. In January, 2010, SPC issued *Circular on Adjusting Jurisdiction Standards on First-instance IPR Civil Cases by Local People's Courts* and *Circular on Publishing Jurisdiction Standards on First-instance IPR Civil Cases by Basic-level People's Court*, which unified and specified the standards on grade jurisdiction over IPR civil case by people's courts nationwide. To meet the actual trial needs, SPC moderately increased the number of basic-level people's courts with jurisdiction over general IPR cases and encouraged intermediate and basic-level people's courts to conduct cross-regional centralized jurisdiction. Also, SPC tentatively designated some local people's courts to exercise jurisdiction over some patent cases, which further optimized IPR trial layout by people's courts nationwide. By the end of December, 2010, with the assignment of SPC, the number of intermediate courts with jurisdiction over cases relating to patent, new varieties of plants, layout designs of integrated circuits, and well-known trademarks verification had reached 76, 44, 46, and 41 respectively, and the number of basic-level courts with jurisdiction over general IPR civil cases had reached 101. On June 18, 2010, SPC gave the official reply for the approval of experimental trial of disputes involving patents for utility model and design by Kunshan People's Court of Jiangsu province.

SPP actively promoted the linkages between administrative and criminal enforcement and strengthened the supervision on the transfer of cases suspected of infringing IPR by administrative enforcement authorities. In particular, SPP promoted the establishment of the “network linking and information sharing” mechanism among regions with favorable conditions. By now, the mechanism was established in the whole region of Shanghai and Yunnan (whole regions), partial region of Beijing, Jiangsu, Guangdong, Zhejiang, Hubei, Shandong, Henan, Sichuan, Jilin. This effective mechanism facilitated the supervision by procuratorate agencies on the transfer of suspected IPR infringement cases by administrative enforcement authorities. In January, SPP submitted the *Advice on Linking Administrative and Criminal Enforcements and Implementing Tasks Relating to Judicial Reform* to the Legislative Office of the State Council after thorough study and assessment, which positively facilitated the establishment of reform measures involving linkage between administrative and criminal enforcements by Legislative Office.

## **V. IPR Special Campaigns for the Shanghai World Expo and the Guangzhou Asian Games**

In 2010, the IPR-related agencies actively organized IPR protection work for the Shanghai World Expo and the Guangzhou Asian Games, provided a powerful

guarantee for the successful holding of the World Expo and the Asian Games, and through these chances, greatly increased the public awareness of IPR protection.

SIPO, jointly MPS, GAC, SAIC, NCAC, SPP, China Council for the Promotion of International Trade (CCPIT), State Council Information Office (SCIO), issued *the Circular on Organizing IPR Special Campaigns for the 2010 World Expo*, gripping on three key emphases in work: strengthening supervision and improving management, focusing on coordination and enforcing the law strictly, increasing publicity and creating atmosphere, so as to carry out a unified deployment of the special work of IPR protection for the World Expo, and to provide a more effective guidance to and coordination with the local administrations. In the beginning of the year, SIPO formulated and issued an action plan for the special campaign. In June, SIPO organized and launched a special research on IPR protection for the World Expo. In August, SIPO launched the in-process supervision and inspection on the special campaign, which had made a significant achievement. In December, the Review and Award Ceremony was convened, with a total of 281 units and 518 individuals honored with the title of “Excellent-Performance Unit or Individual”, concluding the Special Campaign satisfactorily. In September, SIPO, jointly with the International Communication Office of the Central Committee of the Communist Party of China (CCCPC), MPS, GAC, SAIC, NCAC, General Administration of Sports (GAS), and SPP, formulated and published the *Circular on*

*Strengthening IPR Protection Work for the 2010 Guangzhou Asian Games*, so as to guide and improve IPR protection and relevant publicity work of local government departments for the Guangzhou Asian Games.

Under the guidance of *the Circular on Organizing IPR Special Campaigns for the 2010 World Expo* and *the Circular on Strengthening IPR Protection Work for the 2010 Guangzhou Asian Games*, all localities and departments strongly intensified IPR protection for the World Expo and the Asian Games in line with their respective administrative functions.

SIPO formulated and issued *the Working Plan on Patent Enforcement and Protection for 2010 Shanghai World Expo*, which emphasizes on major issues such as protection of the design of the Expo logo, the stability of patent right for the exhibition products and etc. , so as to carry out a comprehensive deployment of the patent enforcement and protection work, and to enhance cracking down patent infringement and counterfeit activity. All local IP offices, in accordance with the *Plan*, formulated their own plans on the IP protection of the World Expo, meanwhile actively implement and deeply launch patent enforcement and protection work across the country.

SAIC strengthened the protection of the Expo logo and the Asian Games logo. SAIC registered 3, 107 marks, special marks and trademarks related to the Expo logo in various classes, investigated and dealt with 1, 132 cases for infringement of

the exclusive right of the Expo logo, and examined and approved 2,539 registration applications for trademarks of the Asian Games logo, which contributed to the successful holding of the Shanghai World Expo and Guangzhou Asian Games. The Trademark Office of SAIC was awarded the honorary title of “Excellent Performance Unit of the Shanghai World Expo” by the CCCPC and the State Council.

NCAC made great efforts in the special work for IP protection on the World Expo and the Asian Games. NCAC adopted urgent enforcement measures for the copyright infringement cases of Expo-related works during the World Expo. Shanghai Copyright Bureau, jointly with other related municipal departments, co-founded the IPR Service Centre for Expo Exhibitors, so as to provide a green channel for the exhibitors to register, and to protect the legitimate right of Expo-related works according to the law. In the special campaign of cracking down pirated audio and video products, mainly focusing on Shanghai, Jiangsu, Zhejiang, Beijing, and Guangzhou, the local copyright law-enforcing departments altogether prohibited 2,933 illegal stalls, confiscated 4,940,000 pirated audio and video products, and investigated some 370 cases of audio-video pirating, handled Beijing Dongfang Xinganjue Audio-Video Publishing House, Xueyuan Audio-Video Publishing House, Jilin Audio-Video Publishing House, and other companies according to the law. The copyright protection work for the Guangzhou Asian Games learned the successful experiences from the Shanghai Expo, and established the

Pearl River Delta joint-action mechanism, which provided an effective guarantee for the successful holding of the Asian Games.

To strengthen the customs' IPR protection for the World Expo, the GAC examined and approved 58 IPR recordings at the custom related to the World Expo successively in five batches. Shanghai Customs established the World Expo IPR Work Leading Group to attach great importance on the protection. During the period of the World Expo, the customs throughout the country investigated and detained 15,397 batches of infringement cargoes, tracked down around 94,000,000 pieces of infringement goods and with a total value of 184,000,000 yuan.

From the overall objective of constructing a safe Expo and maintaining image of the country, MPS deployed all the public security departments in the IPR special campaign for Shanghai World Expo. With positive actions and strong implementation, the local public security departments promptly cracked down the case of fake Expo tickets and franchised products produced and sold by Song Qingmin and etc., and other major Expo-related IPR cases. Statistically, during the Shanghai World Expo, the localities altogether cracked down 1,589 cases of IPR infringement, arrested 3,006 suspects, confiscated 12,600,000 pieces of all kinds of counterfeited and pirated commodities, involving a total value of 1.37 billion yuan, through which the MPS safeguarded the healthy market order and a good IPR protection environment for the successful, wonderful, and memorable Expo.

SPC gave a full play to judicial protection of IPRs and actively provided IPR judicial protection for the Shanghai World Expo and Guangzhou Asian Games. SPC carried out special investigation and research in Shanghai on the IPR judicial protection of the World Expo, guided related courts to handle the IPR cases appropriately. During the periods of the World Expo and the Asian Games, a large number of IPR cases were heard, which effectively cracked down the IPR infringement and criminal violation activities.

SPP gave a full play of procuratorial legal supervision, and safeguarded the successful holding of the World Expo. Out of the national procuratorate system, 90 advanced units or individuals were commended. Besides, SPP, jointly with SIPO, SAIC and other ministries, promulgated *the Circular on Strengthening IPR Protection Work for the 2010 Guangzhou Asian Games*, so as to strengthen the guidance for Guangdong to deal with IPR cases on the Asian Games, guaranteed the successful holding of the Asian Games.

## **VI. Publicity**

The IP-related departments in China organized a great amount of publicity activities in 2010 with continuing improvement of IPR protection environment.

SIPO elaborately organized the “2010 National IP Publicity Week”, established

the Committee of Publicity Week composed of 25 ministries and commissions including the Central Publicity Department, jointly carried out the IP publicity activities with a theme on “Creation, Protection and Development” nationwide through launching startup ceremony and holding press conferences. A total of more than 500 outreach activities were organized all over the country with an attendance of tens of millions, through more than 280,000 reports by means of audio-video and Internet media, achieving favorable publicity result and feedback.

To organize and celebrate the 2<sup>nd</sup> anniversary of the implementation of the National IP Strategy, the 4<sup>th</sup> China Patent Week, the 12<sup>th</sup> China Patent Awards Ceremony, the promulgation of the *National Patent Development Strategy (2011-2020)*, the National IP Protection Symposium of Foreign Invested Institutions, the Mayor Forum on IPR and City Development and other important activities, SIPO organized special publicity activities. SIPO held 9 press conferences, along with a total of more than 2,500 pieces of news broadcasting and tens of thousands of reports through network media all the year around, effectively attracting the public’s attention toward intellectual property.

Focusing on trademark examination and combating piracy and counterfeiting, SAIC launched extensive publicity activities to enhance the influence. At a press conference held by the State Council Information Office ( SCIO) on December 9<sup>th</sup>, the situations about how SAIC completely solved backlog in trademark examina-

tion and appraisal and the campaign in which national SAIC systems actively engaged in combating infringements and counterfeits were released and received favorable feedback home and abroad. CCTV News made reports on “applications for trademark registration in China ranks first in the world” on December 9<sup>th</sup>. *People’s Daily* dedicated its first page to coverage of the remarkable achievements of the area of trademarks on December 10<sup>th</sup>.

During the National IP Publicity Week in 2010, SAIC published the *Annual Development Report on China’s Trademark Strategy*, released the *Typical Cases of the Counterfeiting and Infringements of Registered Trademarks*, and issued the 4.26 special edition about trademark protection in *China Industry & Commerce News*.

SAIC hosted a half-year publicity and reporting program named “China Trademark Achievements” together with *China Daily*: printed “Special Edition of China Trademark Achievements” on *China Daily*; opened “Special Column of China Trademark Achievements” on *China Daily* Website; widely publicized the achievements of China in trademark; edited and published “Special Issue of Geographical Indications” on *China News, Two Sessions*; opened special column of “China Geographical Indications” on *Journal of Contemporary China*; offered guidance to *China Special Native Products* on printing “Special Edition of Geographical Indication Trademarks of Agricultural Products”; successfully held “Na-

tional High School Students Competition on Trademark Knowledge and Writing Contest on Geographical Indications” twice; started shooting a special topic film “China Geographical Indications”; continued to guarantee the revision work and maintenance of content update of China Trademark Website, which had 2.45 billion hits throughout the year of 2010.

NCAC sponsored the initiation ceremony of video copyright protection activity titled “A Win-win Project of Using Genuine Products Joint by A Hundred Cities”. NCAC also launched a series of programs on copyright protection—“Green Bookmark Campaign 2010—Say No To Piracy, Starts From Me”; NCAC and WIPO publicized the experience of Nantong Home Textile which has been honored by WIPO as “Outstanding Demonstration of Copyright”, and conducted the selection and commendation of “WIPO Copyright Golden Award (China)”; held award ceremony of “the National Youth Reading Campaign on Copyright Protection and Copyright Protection Knowledge Contest” successively in Qingdao and Laixi City; established copyright helpdesk at 17<sup>th</sup> Beijing International Book Fair and 62<sup>nd</sup> Frankfurt Book Fair, edited and printed *Guide to China’s Copyright* in Chinese and English version, held a special video display of “Overview of China’s Copyright” in English; launched the Forum on the Centennial of Chinese Copyright Legislation and 20<sup>th</sup> Anniversary of the Promulgation of Copyright Law of P. R. China with Renmin University of China and published *China and the World Copy-*

*right Collection.*

To collaborate with the National IP Publicity Week and the world IP day on April 26<sup>th</sup>, MOC called on all parts of the country to launch IPR protection publicity programs and destruction of infringed and pirated products in order to raise the public awareness of IPR protection.

MOA compiled and published *Agricultural Intellectual Property Rights*, accomplished *Course Book of Protection of New Varieties of Plants*, and promoted knowledge relating to agricultural intellectual property in universities. It also organized the provincial agricultural departments to distribute 100,000 letters to farmers and letters to seed producers and dealers to raise the farmers' awareness of variety rights.

During the National IP Publicity Week, SFA organized a series of publicity activities for intellectual property rights in forestry: launched initiation ceremony of database of new plant varieties in forestry; held award ceremony for the first 26 pilot units of forestry IPRs to expand the social influence of forestry IP protection.

During the National IPR Publicity Week, GAC organized various and targeted IPR publicity activities, including the promulgation of *China Customs IPR Protection White Paper in 2009*, selection and publication of the *Best Ten Practices in Handling IPR Cases by China Customs in 2009*, and organization of dialogues between enterprises and the GAC on IPR protection.

MPS, in conjunction with relevant departments, organized 377 publicity activities, printed and distributed 640,000 copies of publicity materials, and provided information to media and released 256 pieces of pre-warning information.

During the National IP Publicity Week, SPC closely combined the publicity and the judicial IP protection work, expanded the forms of publicity, innovated the content of publicity, and attracted great attention of the society. SPC successfully operated on two specialized websites as the publication platform of authoritative information about the achievements of judicial protection of IPR, namely the website on China IPR Judgments & Decisions ([ipr.chinacourt.org](http://ipr.chinacourt.org)) and the judicial IP protection sub-website of the official website of SPC ([www.court.gov.cn/zscqj](http://www.court.gov.cn/zscqj)). Paying great attention to the openness and transparency of the hearing of intellectual property cases, SPC published the first *Judicial Protection on Intellectual Property by Chinese Courts in 2009 (in both Chinese and English)*, the *Annual Report on IP Cases by the Supreme People's Court (2009)*, promulgated the annual report which summarized the 44 typical problems about the application of laws in the judgement documents of typical cases to the public, and released the introduction of ten most influential cases and 50 typical cases in judicial IP protection in China in 2009.

SPP cooperated with *Procuratorate Daily*, [www.jcrb.com](http://www.jcrb.com), and other media to introduce the IP protection and typical cases handled by procuratorate departments.

The essays on *Procuratorate Daily* also publicized the implementation of *Outline of the National Intellectual Property Strategy* and the effectiveness of cracking down IP infringements by procuratorate departments. Since the beginning of the Special Campaign, *Procuratorate Daily* had launched special columns of “the special campaign against IP infringements and the production and sales of counterfeited and forged commodities within procuratorate departments”, and made great efforts to publicize the achievements scored by the procuratorate departments in approval of arrest and prosecution of IPR criminal violation cases.

## **VII. Education and Training**

In 2010, IP education and training work was actively promoted with the IP professional training mechanism continuously improved.

SIPO formulated and promulgated the *12<sup>th</sup> Five-Year Plan for IP Talents*. Meetings and seminars on national IP training work were organized to summarize findings and exchange experiences. *Administration Measures on the National IP Training Base* (trial version) was formulated. In 2010, 8 national IP training bases including Anhui, Shandong, Hubei, Shanghai, Guangdong, Jiangsu, Chongqing, Shanxi were approved to be established. The first seminar on the national IP training base was held in Changsha, Hunan province. SIPO constructed the national IP

talent pool consisting of national IP experts, national IP one hundred high-level talent pool and provincial IP talent pool to plan the use and management of the talents, and established the National IPR Expert Consulting Committee. It selected one hundred high-level training candidates of Baiqianwan IP Talents Project to participate in the high-level talents domestic and foreign training sessions on law and management.

The national IP system strengthened planning, organization and coordination functions of IP talent training work and formed a favorable pattern with different ranks, levels and categories.

In 2010, SIPO organized 101 training sessions with a total of 38,000 participants. SIPO also organized 21 international training sessions, with an increase of 16% , accounting for more than 20% of the total. Four new branch platforms of the China IP distant education platform were added, bringing the total number to 14, up by 40% . In the meantime, foreign-related training and education work was further developed. SIPO organized 10 international training programs including the visit of Cardozo Law School delegation, and trained a total of 124 foreign examiners.

SAIC fully promoted the organization and implementation work of trademark strategy through training. The Second Workshop for Trademark Strategy and Protection of the Logo of Asian Games was held in Guangzhou, through which more

than 200 officials from local agencies were trained, further enhanced the capability and level of the overall system to organize and implement the trademark strategy, and successfully supported the Guangzhou Asian Games.

NCAC organized two seminars on copyright-related topics for the media, a workshop on copyright-related work and two training sessions for copyright managers and agents to respectively provide targeted training towards the main media, deputy directors of local copyright bureaus from provincial capitals and central cities, copyright managers and agents nationwide. It also organized the 10<sup>th</sup> Beijing 2010 BIBF international copyright trade seminar under the theme of “copyright and trade under digital environment”, to promote the development of copyright trade under digital environment. The NCAC organized three workshops on copyright enforcement in Yunnan, Xinjiang, and Beijing and trained more than 450 primary copyright officers and policemen, which effectively improved local enforcement capabilities.

MOC focused on the legal publicity and education, organized training session to the people who run culture-related Internet business to raise their awareness of IP protection. It formulated *Training Plan for National Culture Market Comprehensive Enforcement Team (2011-2015)* to achieve the goal of building up a team with strong political sense, professional business capability, strict discipline, upright behavior, and good image. It innovated the training forms, emphasized the educa-

tion on enforcement discipline and professional ethnics to enhance the overall capability and level of IP protection in culture market. It integrated the local training resources to hold 9 workshops and 3 seminars on Internet culture market enforcement cases focusing on the training on IP protection work.

MOA organized 8 training sessions for examiners of geographical indications of agricultural products; 899 new examiners were registered. It organized 15 training sessions including IP Training Session of National Agricultural Biotechnology and Training Session for Agents of Plant Varieties, with about 950 participants. The training activities strongly demonstrated the agricultural businesses and entities to set up and improve the management system and organizational structure of agricultural IP, offered services for the specialized farmers' cooperatives and other various agricultural organizations to apply for overseas IP protection and develop global market.

SFA organized training sessions for forestry IP protection and management to train officials from 26 pilot forestry businesses and entities on issues like the implementation of the *Outline of the National Intellectual Property Strategy*, the current situation of forestry IP protection and management. It organized the IP protection and management symposium on camellia oleifera, and officials from forestry departments and academia of 14 provinces (districts, cities) and experts participated in the meeting.

SPC improved the capacity building of the judge team and enhanced the judicial capability of IP via various forms. It organized national court training session of IP trial practice, and trained more than 200 IP judges. It organized consecutively the National Courts Seminar on IPR Cases Judgment and Adjudication, the Seminar on the Application of Law in Trademark Right Authorization and Verification, and other judicial meetings, to explore frontier issues, exchange judicial experiences and promote mutual improvement. Some courts, especially those faced with high trial pressure, selected judges with science and engineer background to judge IP cases, expanding the judge team and strengthening the trial force.

SPP took all kinds of measures to enhance the training work towards local procurators. It organized two IP training sessions and meeting under the theme of “information share through network”, on which domestic and foreign experts discussed issues including IP protection system and the social economic development, the criminal protection of IP and other topics.

## **VIII. International Cooperation**

In 2010, China’s international cooperation in the IP field further expanded its coverage and improved its level, with more varied methods, more concrete contents, and greater strength, thus increasing China’s international influence on IP

protection.

SIPO gave a full play to its function of comprehensively coordinating foreign-related IP affairs by thoroughly participating in the discussion and negotiation of the development agenda of the World Intellectual Property Organization (WIPO), PCT reform and other topics. The SIPO has played a positive role in the discussion related to IPR issues in the China-US Strategic and Economic Dialogue, China-US JCCT, China-EU High-Level Economic and Trade Dialogue, bilateral free trade area negotiations, and other meetings.

In 2010, SAIC carried out a series of bilateral and multilateral exchanges and cooperation programs in the trademark field, handled 295 foreign-related documents, arranged to receive or participated in the receiving of 42 visiting groups, and dispatched 28 groups (35 persons) abroad. SAIC also dispatched participants to join multilateral meetings of the WIPO, WTO and APEC, and bilateral meetings or negotiations between China and Australia, Russia, Switzerland and other countries, strengthened exchange and cooperation with trademark offices of the United States, EU, the United Kingdom, Japan, North Korea, Thailand, and other countries and regions; signed *the Cooperation Memorandum Regarding Further Cooperation Between the SAIC and the WIPO* with the WIPO; organized the seminar regarding new issues in the trademark application process of China, the United States, Europe, and Japan; dispatched participants to join the visit on automation

in America; further developed the cooperation under the Sino-EU Second Phase IP Cooperation Program (IPR2), attended the 1<sup>st</sup> EU-China Conference of Geographical Indications and the 6<sup>th</sup> EU-China IP Dialogue; participated in the 2<sup>nd</sup> China-Japan IP Working Group Meeting, the China-Japan Counterfeit Technology Working Group Meeting, and the China-Japan Consultation Meeting; discussed issues on trademark systems, regimes and protection at the seminar co-organized with French National Industrial Property Office (INPI) and UK IP Office; actively dispatched groups or individuals to join other departments' delegations to visit Germany, Romania, Japan, Czech and other EU countries. The SAIC was awarded the title of *Envoy of Friendship of Spanish Brands in China* at the Shanghai Expo.

In 2010, NCAC actively participated in the negotiation of important copyright issues and formulating of new copyright treaties of WIPO, enhanced the cooperation with international organizations, and organized the 4<sup>th</sup> International Copyright Forum and the Award Ceremony of Global Original Music Concert and Copyright Golden Medal (China) together with WIPO in Beijing; organized the global Press Conference and the release of research reports on achievements of WIPO's demonstration project in Nantong, and actively promoted WIPO's establishment of demonstration spots of excellent copyright protection in China. The NCAC paid great emphasis on the existing bilateral copyright cooperation relations between China and US, UK, EU, Japan and Korea, the expansion of other bilateral relations,

and constructing a favorable IP environment. The NCAC also signed the *Copyright Strategic Cooperation Agreement* with UK IP Office, and the *Strategic Cooperation Memorandum* with Japan's Agency for Cultural Affairs (ministerial level), actively participated in the preparation of China-Australia and China-Costa Rica free trade area negotiations, and the IPR working group meeting under the China-Russia Economic and Trade Committee.

MOA provided good secretariat service to the East Asia Forum of Protection of New Varieties of Plants, organized international seminars regarding plant varieties protection and farmer rights, studied methods to balance the interests of resource providers, breeders, producers and businessmen; participated actively in the activities of international organizations like UPOV; strengthened China-Netherland, China-Germany, and China-Japan bilateral cooperation on the protection of new varieties, implemented "China-EU Cooperation Program on Geographical Indications of Agricultural Products", and attended meetings under the China-EU and China-Switzerland IPR working groups.

SFA carefully carried out the *International Convention for the Protection of New Varieties of Plants*, actively dispatched participants to council meeting of *International Convention for the Protection of New Varieties of Plants*, and undertook 3 compiling tasks of international test guideline; promoted the work of the East Asia Forum on the Protection of New Varieties of Plants, joined the organization of the

Seminar of East Asia Protection of New Varieties of Plants and Farmers' Rights; participated in the 3<sup>rd</sup> Meeting of the East Asia Forum on the Protection of New Varieties of Plants in South Korea, strengthened the cooperation on protection of new varieties of plants between China and the Netherlands, and preformed the co-operation projects seriously.

GAC continued to carry out the enforcement activities under the agreed cooperation framework between customs of the United States, Japan, Korea and other countries. In November, 2010, GAC signed *the Memorandum on Strengthening IPR Boarder Enforcement Cooperation* with the General Administration of Russian Customs, and signed *the Renewal Document of the China-EU Customs IPR Cooperation Action Plan* with the EU Customs in December 2010.

MPS actively expanded the cooperation scope, and deepened international cooperation on enforcement; held talks with the visiting minister of US Ministry of Justice, and exchanged effectively with each other on the deepening of IP protection cooperation; signed the letter of intent on cooperation with the Immigration and Customs Enforcement of U. S. Department of Homeland Security, further promoted the Sino-US enforcement cooperation; investigated and handled fake cigarette cases with relevant countries, carrying out joint enforcement action named "STORM" to suppress the production of counterfeited drugs; actively participated in enforcement communication activities abroad like international enforcement con-

ferences, and expressed the firm stance and attitude of the Chinese government and public security offices on cracking down the IP infringement activities for many times on influential international forums.

SPC and SPP attached great importance to the international cooperation and exchange so as to improve the international influence of the Chinese IPR judicial protection. SPC and SPP actively dispatched participants to join the China-EU IP Working Group, the IPR2 Cooperation Program, the IPR working groups between China and Switzerland, Brazil and Japan, the China-US JCCT and other meetings. SPC organized judges to visit the United States and European countries, while SPP dispatched delegations to pay visits to relevant European countries so as to exchange views on IPR judicial protection.