

二〇一一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	6
四、机制和能力建设	15
五、宣 传	21
六、教育培训	27
七、国际合作	31

二〇一一年中国知识产权保护状况

2011年是“十二五”规划的开局之年，也是实现《国家知识产权战略纲要》五年工作目标的关键一年，中国政府以科学发展为主题，以加快转变经济发展方式为主线，贯彻落实《国家知识产权战略纲要》，大力推进知识产权保护工作，在立法、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均取得了长足进展。

一、立 法

2011年，立足经济社会发展需要，通过制定修订一系列法律法规规章，中国知识产权法律体系得到进一步健全和完善。

国家知识产权局起草《专利代理条例修订草案（送审稿）》，报请国务院审议，积极配合开展相关审议工作；完成《职务发明条例（讨论稿）》的起草和《专利实施许可合同备案办法》的修订，同时加快《专利申请优先审查管理办法》、《专利标识标注办法》、《专利实施强制许可办法》、《国家知识产权局行政复议规程》

等部门规章的起草、修订。

国家工商行政管理总局积极配合国务院法制办推进《商标法》修订工作，结合公众意见反馈，就商标异议等问题进行充分研究论证，修改形成《商标法（修订草案第二次公开征求意见稿）》，并于2011年10月再次公开征求社会意见。

国家版权局正式启动了《著作权法》第三次修订工作，颁布《关于进一步规范作品登记程序等有关工作的通知》，起草《版权执法指导意见》、《教科书法定许可付酬办法》，研究、起草《政府机关使用计算机软件条例》，并参与刑法有关著作权条款实施意见的修改等。

农业部开展了《植物新品种保护条例》修订调研，并形成了修订意见稿；制定了《农业植物品种命名规定》；推进生物遗传资源知识产权保护相关法律和国际公约的研究，组织起草了《农业遗传资源权属登记管理办法》（草稿）。

最高人民法院发布《关于充分发挥知识产权审判职能作用推动社会主义文化大发展大繁荣和促进经济自主协调发展若干问题的意见》；大力加强知识产权审判核心业务领域的调研，起草《关于审理侵犯信息网络传播权民事纠纷案件适用法律若干问题的规定》、《关于审理专利授权确权行政案件若干问题的意见》和《关于审理侵犯专利权纠纷案件若干问题的意见》3个规范性文件讨

论稿。

二、审批登记

2011年，中国知识产权审批登记能力建设取得显著进展，审批登记质量与效率均有新突破。

2011年，中国专利申请量快速增长，全年达到163.3万件，实现了“十二五”知识产权事业发展的良好开局。其中发明专利申请52.6万件，同比增长34.5%；实用新型专利申请58.5万件，同比增长42.7%；外观设计专利申请52.1万件，同比增长23.8%。

截至2011年底，经国家知识产权局授权并维持有效的专利共计274万件，其中发明专利69.7万件，占25.4%，实用新型专利112.1万件，占40.9%，外观设计专利92.2万件，占33.7%。维持有效的专利中，国内专利230.3万件，占84.1%，国外专利43.7万，占15.9%。有效发明专利中，国内拥有35.1万件，占50.4%，首次超过国外在华有效发明专利数量。

2011年，中国专利审批能力持续提高。国家知识产权局专利审查结案量继续稳定增长，共完成发明实质审查271 202件，同比增长14.3%；完成实用新型专利审查443 676件，同比增长

14.6%；完成外观设计专利审查 502 828 件，同比增长 14.2%。专利审查周期稳中有降，发明专利实审审查周期缩短为 22.9 个月，实用新型专利审查周期为 4.7 个月，外观设计专利审查周期为 2.6 个月。

2011 年，国家知识产权局共受理依据《专利合作条约》（PCT）提出的国际申请 17 473 件，同比增长 35.3%；进入中国国家阶段的国际申请 66 320 件，同比增长 6.0%，其中发明专利申请 65 996 件，实用新型专利申请 324 件。

2011 年，国家知识产权局全年受理复审请求 12 946 件，同比增长 4.7%；受理无效宣告请求 2 749 件，同比增长 14%。全年收到集成电路布图设计登记申请 1 464 件，予以公告并发出证书 1 329 件。

2011 年，中国商标注册申请量达 1 416 785 件，同比增长 32.14%，比 2008 年翻一番，连续 10 年位居世界第一。国家工商行政管理总局在 2010 年彻底解决商标审查积压的基础上，圆满完成 2011 年商标注册审查工作，全年共审查商标注册申请 1 205 529 件，商标注册审查周期继续保持在 10 个月之内；裁定异议 56 829 件，同比增长 75.14%；截至 2011 年底，中国商标累计申请量 971.2 万件、累计注册量 665.1 万件、有效注册商标 551 万件，均居世界第一；在地理标志和驰名商标方面，2011 年共核准注册和

初步审定地理标志 341 件，地理标志注册及初步审定总量达到 1 381 件；全年共对 3 187 件商标通过驰名商标认定进行了扩大保护。

2011 年，国内申请人马德里商标国际注册量 2 053 件，同比增长 12.8%，自 1989 年中国加入马德里联盟以来年注册量首次突破 2 000 件，累计已达 13 297 件，位居世界第七，在发展中国家排名第一；国外申请人通过马德里体系在华申请商标注册 18 724 件，同比增长 16%，累计已达 167 025 件，连续七年位居世界第一。

2011 年，国家工商行政管理总局新收商标评审案件 7.4 万件，较 2010 年同期增长 2.7%。截至 2011 年底，共审理评审案件 35 043 件，其中驳回复审 26 840 件，涉及双方当事人的复杂案件 8 203 件，案件审理周期仍控制在 18 个月以内。

2011 年，国家版权局规范作品登记工作，研究制定并颁布了《关于进一步规范作品登记程序等有关工作的通知》，从受理、审查、登记、证书、信息统计以及鼓励政策等方面统一规范了全国的作品登记工作，使版权公共服务和产业发展迈出重要一步，全年软件著作权登记量达到 10.93 万件，同比增长 33.4%。

2011 年，农业部和国家林业局在植物新品种保护方面稳步推进。农业部已受理植物品种权申请 1 045 件，再次突破 1 000 件，完成初步审查 1 179 件，授权 180 件；全年累计新公告颁证农产品

地理标志产品 213 个，累计公告颁证农产品地理标志产品 748 个。自受理申请以来，累计受理申请 8 807 件，授权 3 713 件，测试 6 487 个植物新品种。国家林业局全年共受理林业品种权申请 139 件，同比增长 56.2% ，实质审查植物新品种权申请 52 个，发布公告 15 批。

2011 年，海关总署共核准知识产权海关保护备案 3 532 件，累计核准总量 24 000 件。

三、执 法

1. 专项行动

2010 年 10 月至 2011 年 6 月，中国政府在全国集中开展了为期 9 个月的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”）。

中国对专项行动高度重视，温家宝总理亲自出席全国知识产权保护与执法工作电视电话会议并作重要讲话，动员部署相关工作，并为专项行动成果展题写导语，王岐山副总理担任全国专项行动领导小组组长，多次主持召开会议，研究部署工作。各地区、各有关部门精心组织、扎实推进，查处了一批侵犯知识产权、制假售假大案要案，严惩了违法犯罪分子，广泛开展了宣传教育。专项行

动期间，各级行政执法部门共立案 15.6 万件，涉案金额 34.3 亿元，捣毁窝点 9 135 个，遏制了侵犯知识产权和制售假冒伪劣商品多发的势头，取得了显著成效。

专项行动回应了国际社会关切，维护了良好国家形象，顺应了中国建设创新型国家、增强国际竞争力的内在要求，达到了预期目的。

专项行动期间，全国知识产权系统共出动执法人员 16.7 万余人次，检查商品 228.6 万余件；查处各类专利案件 2 572 起，罚没物品 8 万多件；跨部门执法协作 665 次，跨地区执法协作 1 092 次，有效维护了健康的市场环境。

专项行动期间，全国工商系统共出动执法人员 397.8 万人次，检查经营户 922.6 万户，检查批发零售市场和集贸市场等各类市场 80.2 万个，捣毁制假售假窝点 4 966 个，吊销营业执照 1 745 户。立案查处商标侵权假冒案件 9.07 万件，其中侵犯驰名商标专用权案件 1.38 万件，涉外商标专用权案件 1.32 万件，地理标志商标专用权案件 648 件，移送司法机关 757 件。

新闻出版总署、国家版权局、全国“扫黄打非”办公室开展抓源头、清市场、打网络、查办大要案等重要工作。专项行动期间，各地共立案查处 3 381 起案件，移送司法机关追究刑事责任案件 179 起，共出动各类检查人员 692 560 人次，检查各类印刷复制

企业、图书、软件、音像制品等出版物批销场所和物流企业 334 920 家，捣毁各类窝点 663 个，取缔非法摊点 6 194 个，收缴、罚没侵权盗版制品 1 336 万余件。

文化部结合文化市场领域知识产权保护存在的突出问题，以打击网络游戏、网络音乐、网络动漫、电子游戏及卡拉 OK 歌曲等的侵权盗版行为为重点内容，以环渤海、长三角和珠三角地区为重点地区，以歌舞娱乐、游艺娱乐、网络文化为重点领域，以社会反响较为强烈的典型案件为重点抓手，相应部署开展了文化市场知识产权保护专项行动。在此期间，全国文化行政部门和文化市场综合执法机构共出动执法人员 822 万余人次，立案查处涉及知识产权案件 5 532 件，涉案金额 2 857.16 万元，同时关闭非法网络音乐网站 314 家，捣毁侵权制假窝点 951 个，罚没物品 953 万余件。

国家林业局结合全国专项行动开展，制定了打击侵犯林业植物新品种权专项行动实施方案，组织召开了国家林业局电视电话会议，确保林业系统专项行动工作顺利开展。重点督导河北省和河南省林业行政主管部门开展“美人榆”、“全红杨”新品种维权执法工作，有效遏制了林业植物新品种侵权行为的多发势头。

全国海关在专项行动期间共查获进出口侵权货物 12 205 批，扣留侵权商品 7 615 多万件，有力打击了进出口侵权货物违法活动。

全国公安机关组织开展打击侵犯知识产权和制售伪劣商品犯罪“亮剑”行动，共破获侵犯知识产权和制售伪劣商品犯罪案件43 550起，涉案总价值达241.5亿元，按正品价格计算超过5 000亿元，抓获犯罪嫌疑人54 658名，已逮捕19 131名，打掉批发、销售侵权伪劣商品犯罪团伙7 731个，总体战果超过往年同期的9倍。

专项行动期间，全国检察机关共批捕涉嫌侵犯知识产权和制售假冒伪劣商品犯罪案件4 006件7 307人，起诉2 986件5 740人。其中批捕侵犯知识产权犯罪案件2 374件4 103人，同比分别增长108.4%和121.3%，起诉1 712件3 093人，同比分别增长36.3%和42.8%；检察机关共建议行政执法机关移送涉嫌犯罪的侵犯知识产权和制售假冒伪劣商品犯罪案件1 197件1 627人，监督公安机关立案侵犯知识产权案件86件111人；会同有关部门对6批205件重大案件进行挂牌督办。督办案件中，侵犯知识产权案件已批捕88件218人，起诉65件173人。

2. 日常执法

2011年，知识产权各相关部门加强日常执法，执法力度和效率均有大幅提高。

国家知识产权局颁布了《关于加强专利行政执法工作的决定》，制定印发《专利行政执法操作指南》、《专利行政执法文书表

格》等文件，有效推进和规范全国执法工作开展。2011年，全国知识产权系统办理专利案件3017件，同比增长65.5%；同期，还办理展会专利投诉案件1110件。全年共出动执法人员175432人次，检查商业场所12346次，检查商品2507859件，向公安部门移交案件7件，接受其他部门移交案件14件，跨部门执法协作623次，跨地区执法协作875次。

2011年，全国各级工商行政管理机关查处各类商标违法案件79021件，同比增长41.02%，其中查处一般违法案件10185件，商标侵权假冒案件68836件。在查处的各类商标违法案件中，查处涉外商标案件17022件，共收缴和消除违法商标标识11802249件，涉嫌商标犯罪移送司法机关案件421件，商标犯罪嫌疑人415人。

国家版权局联合公安部、工业和信息化部开展第六次、第七次打击网络侵权盗版专项治理“剑网”行动。在“剑网”行动中，各地共立案查处网络侵权盗版案件1148起，对466起案件依法作出行政处罚，将36起案件移送司法机关追究刑事责任。加强网络版权主动监管工作，对新浪、优酷等18家重点视频网站进行主动监管，有效规范了视频网站行业的版权经营秩序。同时，政府机关软件正版化检查整改工作取得阶段性成效，135家中央和国家机关按时完成软件正版化检查整改工作，地方政府机关软件正版化检查

整改工作正在积极推进；企业软件正版化工作向纵深推进，中央企业总部完全实现软件正版化，中央企业二、三级企业、大型银行机构和保险企业基本实现软件正版化，煤炭、旅游饭店、网吧、勘察设计等重点行业取得了突破性进展。

文化部按季度下发综合执法工作要点、综合执法工作情况通报，指导各地文化行政部门和文化市场综合执法机构开展日常执法工作，加大对侵权盗版等违法文化经营活动的打击整治力度。针对当前网络音乐、网络游戏等市场存在的突出问题，文化部陆续下发了9批次的非法网络文化产品或违法网络文化单位黑名单，部署各地进一步加大网络文化市场执法工作力度，保护网络文化市场知识产权。据统计，2011年全国文化行政部门和文化市场综合行政执法机构出动执法人员1225.1万余人次，比2010年增加50.4%；检查文化市场经营单位741.9万余家次，责令经营单位改正20.8万余家次，受理举报4.85万余件，立案调查6.37万余件，移交案件3504件，办结案件5.7万余件，警告经营单位10.2万余家次，罚款1.91亿余元，没收违法所得410.9万余元，责令停业整顿1.75万余家次，吊销许可证376家。

2011年，农业部通过强化源头治理等，加大了对农业知识产权的保护力度。开展了种子生产许可证证后监督，重点督查未经品种权人许可、发放授权品种生产许可证的情况，撤销、收回种子生

产许可证 470 余个；对市场进行了全面检查，共抽取种子样品 3.8 万份，发现了假冒侵权企业 450 余家，约谈警诫了其中的 300 多家企业，吊销了 19 家企业生产经营许可证；同时加强对侵犯品种权案件处理，据不完全统计，2011 年农业部共查处侵犯品种权案件 123 起，涉案种子达 200 万千克，案值 3 000 余万元，曝光侵权假冒企业 20 余家。同时坚持“检打联动”和“属地管理”的原则，针对种子市场“套牌侵权”猖獗等问题，广泛开展品种真实性鉴定，加大种子产业链全程监管力度，保护植物新品种权，维护公平有序的种业发展环境。

2011 年，海关系统充分发挥海关进出境监管职能，积极主动查处侵权违法行为。据不完全统计，全国海关全年共扣留侵权货物超过 1.8 万批，涉及货物 1.03 亿件。

3. 司法工作

2011 年，全国各级司法机关继续加大司法保护力度，司法保护知识产权作用进一步增强。

全国法院依法公正高效审理案件，知识产权司法公信力得到进一步提升。民事审判在知识产权司法保护中的主渠道作用得到进一步发挥。2011 年，全国法院共新收和审结知识产权民事一审案件 59 882 件和 58 201 件，同比分别增长 39.48% 和 39.51%。其中，新收专利案件 7 819 件，同比增长 35.16%；商标案件 12 991 件，

同比增长 53.56%；著作权案件 35 185 件，同比增长 42.34%；技术合同案件 557 件，同比下降 16.87%；不正当竞争案件 1 137 件（其中垄断民事一审案件 18 件），同比增长 0.53%；其他知识产权案件 2 193 件，同比增长 11.55%。共审结涉外知识产权民事一审案件 1 321 件，同比下降 3.51%；审结涉港澳台知识产权民事一审案件 635 件，同比增长 128.42%。共新收和审结知识产权民事二审案件 7 642 件和 7 659 件（含旧存），同比分别增长 17.17% 和 18.18%；共新收和审结再审案件 294 件和 224 件，同比分别增长 164.86% 和 105.50%。知识产权诉讼调解工作的制度化和规范化进一步增强，全国知识产权民事案件一审调撤率达到 71.32%，同比增长 4.56%。

知识产权行政审判对行政执法行为的监督和支持作用进一步发挥。全国法院共新收和审结知识产权行政一审案件 2 433 件和 2 470 件（含旧存）。其中，审结涉外知识产权行政一审案件 986 件，涉港澳台知识产权行政一审案件 251 件。共新收和审结知识产权行政二审案件 1 333 件和 1 266 件；再审案件 3 件和 1 件。

知识产权刑事司法保护力度进一步加大，知识产权刑事审判惩治和震慑侵犯知识产权犯罪的功能得到有效发挥。全国法院全年共审结知识产权刑事一审案件 5 504 件，同比增长 39.62%；审结知识产权刑事二审案件 166 件；审结案件中，生效判决人数 7 950

人，其中给予刑事处罚 7 892 人。

全国检察机关认真履行批捕、起诉等法律监督职能，重点打击侵犯知识产权犯罪。

在审查批捕方面，全国检察机关共受理提请批准逮捕涉及侵犯知识产权犯罪案件 4 370 件 7 806 人，同比分别增长 131.6% 和 131.8%。经审查，批准逮捕 3 532 件 5 952 人，同比分别增长 125.5% 和 127.8%。其中，假冒注册商标案件 1 101 件，占 31.2%，同比增长 3.5%；侵犯著作权案件 363 件，占 10.3%，同比增长 7.3%；假冒专利案件 5 件，占 0.14%，实现零的突破。

在审查起诉方面，全国检察机关受理公安机关移送审查起诉涉及侵犯知识产权犯罪案件 5 690 件 11 147 人，同比分别增长 157.8% 和 170.4%；经审查，提起公诉 3 786 件 6 870 人，同比分别增长 123.1% 和 124.1%。其中，假冒注册商标案件 1 166 件，占 30.8%，同比减少 3.8%；侵犯著作权案件 610 件，占 16.1%，同比增长 12.1%；假冒专利案件 5 件，占 0.1%，同比增长 0.04%。

在刑事立案监督方面，2011 年，全国检察机关受理公安机关应当立案侦查而不立案侦查涉及侵犯知识产权犯罪案件线索 41 件，同比增长 86.4%；经审查，监督公安机关立案 32 件。其中，假冒注册商标案件 14 件，占 43.8%，同比减少 24.1%；侵犯著作权案件 3 件，占 9.4%，实现零的突破。

四、机制和能力建设

2011年，中国知识产权各相关部门开拓思路，创新工作方式方法，加强能力建设，知识产权保护长效机制得到进一步完善。

专项行动结束后，中国政府站在转变经济发展方式、调整经济结构、实现科学发展和加强自主创新国家建设、提升国际竞争力的高度，决定建立打击侵权假冒的长效机制。2011年11月，国务院印发了《国务院关于进一步做好打击侵犯知识产权和制售假冒伪劣商品工作的意见》（以下简称《意见》），从4个方面明确了12条意见措施，作为下一步中国政府深入推进打击侵权和假冒伪劣工作的纲领性文件，对各地、各相关部门如何推进工作、落实责任作出了明确部署。同时，成立了由王岐山副总理担任组长的全国打击侵犯知识产权和制售假冒伪劣商品工作领导小组（以下简称“领导小组”），包括29个成员单位，领导小组办公室设在商务部，承担领导小组日常工作。各成员单位在新的领导体制下，按照领导小组的统一部署，密切配合，深入贯彻落实《意见》，推进打击侵权假冒工作不断深入。

国家知识产权局充分发挥组织协调职能，连续3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发布《中国

保护知识产权行动计划》，连续 4 年组织召开“全国外商机构保护知识产权座谈会”，组织召开“全国内资暨港澳台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。国家知识产权局与公安部联合印发《关于建立协作配合机制共同加强知识产权保护工作的通知》，不断深化泛珠三角、长三角、环渤海、中部十六省市、西部十二省市、东北三省、粤渝等多个跨省专利执法协作机制；联合发展改革委、科技部等九部委共同编制、发布《国家知识产权事业发展“十二五”规划》，提出知识产权执法保护能力建设工程，强化知识产权保护管理机制，持续推动知识产权保护合力的形成。

截至 2011 年底，国家知识产权局与 12 个省级地方人民政府建立了知识产权合作会商工作机制，有 55 家地方知识产权局进入“5·26”专利执法推进工程，38 家司法机构、研究开发机构和法律服务机构成为全国专利保护重点联系单位，全国共设立 75 家知识产权维权援助中心，“12330”知识产权维权援助与举报投诉公益电话影响力日益扩大。

国家工商行政管理总局不断创新商标审查、案件审理工作机制，改进商标审查、异议、评审流程，提高商标审查审理质量和工作效率；发布《国家商标战略实施示范企业评估办法》和《国家商标战略实施示范城市（区）评估办法》，推动商标战略实施示范

工作不断向纵深发展。

国家版权局多管齐下加强机制和能力建设。在专项行动中，巩固行政、刑事司法办案衔接机制，对侵权盗版进行了有效的刑事打击；在宣传方面，与各省建立了紧密的信息联动机制，保证了信息沟通、报送、宣传的及时有效；在执法能力建设方面，分别在宁夏、河南、天津、北京举办了4期版权执法培训班，对31个省（自治区、直辖市）版权局省级、地市级、县级版权行政执法和公安机关、检察院相关负责同志进行了集中执法培训，大大提高了版权执法人员的执法能力和水平；在软件正版化方面，起草了《政府机关使用计算机软件条例》，推进了软件正版化工作长效机制建设。

文化部针对网络文化经营活动技术含量高、传播速度快、影响覆盖面广、不受地域限制等特点，下发《文化部关于建立网络文化市场执法协作机制的通知》，充分整合执法资源，加大市场监管力度，创新网络文化市场执法工作机制。抽调各地网络文化市场执法业务骨干，组建“网络文化市场执法协作小组”，协助承担网络文化市场的日常巡查、执法协作及应急处置等工作；确定了两批共24个“以案代训”网络文化市场重点督办案件，指定北京文化市场行政执法总队、上海市文化市场行政执法总队等13个执法机构作为牵头单位，同时抽调其他地区的“网络文化市场执法协作小

组”和执法骨干参与集中办案，进一步加强地区之间、人员之间的网络执法交流与合作。

农业部健全执法鉴定等技术体系，进一步加强机制和能力建设。组织研制了普通小麦、大豆等8种作物的DNA指纹图谱鉴定规程，指导部分品种测试机构和农业科研机构申请司法、质量鉴定等资质认证，新增青岛、海南海洋渔业等省级农产品地理标志工作机构，使全国省级工作机构达到55家，新委托定点品质鉴定检测机构3家，使全国定点农产品地理标志产品品质鉴定检测机构累计达93家；制定农业植物新品种保护技术支撑体系等建设规划；成立种业知识产权联盟，发布《中国种业联盟自律维权公约》，培育农业领域打击侵权假冒的社会力量；开展农产品地理标志技术规范制定、质量监测、监管追溯、国际合作与互认、发展现状及机制等研究。

国家林业局加强了林业知识产权基础工作，开通了《中国林业知识产权网》，发布了《2010林业知识产权年度报告》，研究制定《林业知识产权“十二五”发展规划》（征求意见稿），完善了林业知识产权基础数据库，启动了林业知识产权信息平台 and 预警机制建设。

海关系统不断加强与公安、工商、质检、版权、商务、知识产权等部门的执法协作，尤其是加强与公安机关的衔接配合，加大打

击力度，海关在执法过程中发现重大案件线索及时向公安机关进行通报。上海、广州、宁波、汕头等海关加强与地方各级知识产权主管部门的联系沟通，建立健全了与公安、工商、法院的知识产权执法合作机制，形成共同打击侵权活动的外部合力。杭州、厦门、南京、北京、重庆等海关与地方公安、法院、工商等部门就侵权案件情报共享、案情通报、线索移交等进行交流。

公安部在创新战法的同时，加强长效机制建设，取得成效。以“打大、打多、打深、打精”为主战目标，实施科技战、信息战、合成战，不断提高主动发现、进攻能力；实施“专案集群战役”，开创了案侦新模式；坚持实战导向，提升了组织指挥效能，进一步强化部、省两级实战职能，下沉基层，实现了扁平化指挥。通过向全国印发《打击侵权犯罪 16 种技战法》、主办或协办培训班及交流会、开展专题调研等方式提升执法能力和规范化水平；会同法院、检察院出台《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》，系统解决了案件管辖、性质认定等困扰执法实践的难题；针对商标认定、假药犯罪认定鉴定等问题，与工商行政管理总局、食品药品监管局进行沟通，征询法律意见；会同国家质检总局、工商行政管理总局、食品药品监管局等部门建立起以即时通报犯罪线索、相互提供专家意见为核心的新型协作机制，逐步形成行政执法与刑事司法的“信息共享、优势互补”的工作格局，推动

了“两法衔接”。

最高人民法院坚持知识产权审判领域的改革创新，推动建立更为科学的知识产权审判体制和工作机制。知识产权审判业务庭集中审理知识产权民事、行政和刑事案件的试点工作得到进一步推广，基层法院、中级法院知识产权案件管辖布局得到进一步优化。截至2011年底，全国已有5个高级法院、50个中级法院和52个基层法院开展了相关试点。全国法院知识产权审理格局进一步优化。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，提高知识产权案件管辖的均衡性和合理性。截至2011年12月底，全国共有82个具有专利案件管辖权的中级法院、45个具有植物新品种案件管辖权的中级法院、46个具有集成电路布图设计案件管辖权的中级法院、43个具有驰名商标案件管辖权的中级法院，119个具有一般知识产权案件管辖权的基层法院，3个试点审理实用新型和外观设计专利纠纷案件的基层法院。创新和发展诉讼与非诉讼相衔接的知识产权纠纷解决机制。最高人民法院知识产权审判庭与中国互联网协会签署《互联网知识产权纠纷调解机制备忘录》，充分发挥行业协会在知识产权纠纷中的调解作用，为当事人提供更多可供选择的纠纷解决方式。

最高人民检察院以专项行动为契机，积极推动机制建设。在中

办、国办转发了国务院法制办起草的《关于加强行政执法与刑事司法衔接工作的意见》后，最高人民检察院也下发了贯彻实施意见，积极推动“行政执法与刑事司法衔接机制”。在检察机关的推动下，“网上衔接、信息共享”机制建设也有较快发展，并在专项行动中发挥了重要作用。

五、宣 传

2011年，知识产权各相关部门构建立体宣传网络，结合部门重点工作和重要时间节点，精心组织开展形式多样的宣传活动，知识产权保护环境进一步优化。

全国专项行动领导小组办公室建立了与新闻媒体和执法部门的双向联系机制，会同中央宣传部、国务院新闻办等协调主要媒体开设专栏、专题、专版，定期召开新闻发布会、媒体通气会，跟踪宣传专项行动进展和成效，曝光典型案例，极大地震慑了违法犯罪分子，带动了工作开展。专项行动期间，境内外主要媒体发布报道2.3万余篇。专项行动结束后，为进一步宣传专项行动成果，增强公众知识产权保护意识，全国专项行动领导小组办公室组织各成员单位共同举办专项行动网络成果展。此次展览创新政府办展形式，把专项行动成果通过网络全方位客观真实地展示给公众，方便了公

众广泛参与。同时通过在线访谈、网民留言等方式开展网上交流，解读专项行动、回答观众问题、介绍识假防骗知识，增强了公众的知识产权意识，加大了对侵权假冒的警示教育和舆论监督作用，为进一步加强知识产权保护创建了良好平台。

国家知识产权局围绕国家经济社会发展大局，以宣传国家知识产权战略实施为主线，联合中央宣传部等 25 家部（委）精心组织以“知识产权助推经济转型”为主题的 2011 年全国知识产权宣传周。宣传周期间，通过举行启动仪式，召开新闻发布会，组织高层论坛，发布《二〇一〇年中国知识产权保护状况》，举办培训、讲座、咨询，开展公众社会调查，制作播出电视公益广告等形式，在全国上下形成集中宣传报道的态势，取得了较好宣传效果和社会反响。

国家知识产权局联合国家工商行政管理总局、国家版权局共同开展“2010 年度全国知识产权保护重大事件及有影响人物评选活动”，不断加大知识产权保护工作影响力。围绕知识产权战略实施三周年、第五届中国专利周、第十三届中国专利奖颁奖大会等专项工作，国家知识产权局有针对性地组织开展专题宣传，全年共召开 6 场自主新闻发布会，举办专题报告会、辅导培训班等上千次，发放各类宣传资料近 10 万份。据不完全统计，各类媒体播放“12330” 知识产权举报投诉与维权援助公益服务热线公益广告片 6

万余次；政府网站全年共摘编、发布新闻类信息 1.9 万余篇，被国内外主流新闻媒体转载率超过 85%。

国家工商行政管理总局认真做好 2011 年全国知识产权宣传周的各项宣传活动，在宣传周期间，发布了《中国商标战略年度发展报告 2010》（中英文版），参与了“2011 年全国知识产权宣传周活动启动仪式”、“2010 年中国知识产权保护状况”新闻发布会等一系列活动；与世界知识产权组织共同开展首届“中国商标金奖”评选活动，对我国在商标注册、运用、保护和管理方面作出突出成绩的单位和个人给予表彰；召开打击侵犯知识产权和制售假冒伪劣商品专项行动新闻发布会，通报全国工商系统集中开展专项行动取得的成效；在报纸开辟专栏、举办征文活动，为商标战略实施营造良好的舆论氛围和社会环境；通过举办商标知识大赛、地理标志文化节、拍摄电视专题片等多种形式和渠道进行广泛宣传，推动地理标志法律知识深入人心。

围绕 2011 年全国知识产权宣传周、新中国《著作权法》实施 20 周年等主题，新闻出版总署、国家版权局、全国“扫黄打非”办公室联合中央电视台在京启动了“绿书签行动 2011——拒绝盗版，从我做起”版权保护系列宣传活动；与中央电视台法制频道合作录制了 5 期《一线》版权保护特别节目，解读版权工作热点问题，宣传版权保护知识；成功举办了“第三届全国大学生版权

征文颁奖仪式暨《版权保护小卫士》赠书仪式”；云南、江西等各地版权行政管理部门开展“版权保护知识竞赛”、“版权保护进校园签名活动”等宣传活动，在全社会营造出“尊重知识、尊重劳动、尊重创作、尊重版权”的良好舆论氛围；对2011年度查处侵权盗版案件137家有功单位和122名有功个人进行了奖励，并向社会公布了“安徽骑士音乐网侵权案”等版权执法十大案件，进一步提高了各地各相关部门办案积极性。

文化部加强法制宣传教育，完善“12318”举报监督体系。2011年2月，下发《文化部办公厅关于开展文化市场法制宣传教育活动的通知》，在全国范围内集中开展文化市场法制宣传教育活动。各地文化行政部门和文化市场综合执法机构通过报刊、广播、电视和网络等新闻媒体，于3月18日集中开展了以“12318”文化市场举报监督体系为重点的文化市场法制宣传教育活动。

农业部邀请CCTV-1、CCTV-7、《人民日报》、《农民日报》、新华社等媒体参加了农业部在湖北、甘肃、湖南等地举行的全国打击侵犯植物品种权和假冒伪劣种子现场会，对保护农业知识产权等进行了广泛报道。在《农民日报》、《科技日报》刊载了《致品种权人公开信》和《致种子生产、经营户公开信》，普及品种权知识。结合国际植物新品种保护联盟成立50周年，编印了《植物新品种保护在中国》宣传册。积极参与2011年中国国际农产品交易

会和中国绿色食品博览会，组织了北京、甘肃、辽宁等农产品地理标志颁证、推广等活动，扩大了农产品地理标志产品的知名度和影响力。参加了第十八届中国杨凌农业高新科技成果博览会，举行了植物新品种保护专题展示、植物新品种信息发布会、品种权转让现场签约以及农业部植物新品种保护办公室审查员现场咨询等系列活动，答疑咨询近万次（件），免费发放植物新品种保护相关资料 3 万余份。

国家林业局加强宣传工作，结合 2011 年全国知识产权宣传周活动开展，举办了以“知识产权与现代林业”为主题的林业知识产权高层论坛和以“加强知识产权工作，支撑现代林业发展”为主题的林业知识产权保护与运用成就展览，并在《中国绿色时报》上刊发了林业知识产权专版宣传。在与浙江省新品办合作的浙江全省植物新品种保护会上，宣讲了林业植物新品种保护成效和程序。并派专家赴江西，在江西省林业厅举办的“林业知识产权保护与管理培训班”上进行了植物新品种保护、知识产权信息平台与预警机制专题讲座，有力促进了知识产权保护意识。印发了林业知识产权保护宣传册，向各省（区、市）林业部门、林业知识产权试点单位进行了发放。

2011 年，海关系统采取多种形式、全方位加强对外宣传工作，充分利用互联网、报刊杂志、电视媒体等宣传媒介，通过典型案例

曝光、在线访谈、信息通报等方式，宣传海关打击侵权取得成效，展现海关打击侵权商品活动的坚决态度，营造了强大的舆论宣传声势。

为了提升宣传效果，海关总署举办在线新闻发布会，介绍海关系统打击侵犯知识产权和制售假冒伪劣商品专项行动总体情况；在首届“中国优秀自主品牌国际发展战略高峰论坛”上介绍自主知识产权海关保护采取的措施及取得的成效；派员做客人民网，就海关如何开展知识产权保护问题接受在线访谈。此外，在接见德国海关署长、美国驻华大使、美国商务部助理部长、英国税务海关署和知识产权局代表、韩国新任驻华大使、法国驻华使馆海关参赞等场合分别介绍知识产权海关保护工作及取得成效，中国海关的知识产权保护工作得到外方理解和高度评价，并获全球反假冒组织颁发年度全球唯一的“2011年全球反假冒最佳政府机构奖”。

公安部宣传教育绘声绘色。一是大力开展主题宣传。通过电视专题、新闻专访、报刊专版、新华社通稿、腾讯网专栏等多种形式，持续发起深度、密集的宣传攻势。二是组织集中销毁活动。在“5.15 经侦宣传日”和 11 月 6 日，两次组织集中销毁活动，全国近 200 个城市共同参加，销毁假冒伪劣商品 3 120 余万件，央视现场直播，媒体连续报道，社会反响巨大。三是筹办专项行动成果展。积极参与全国专项行动成果网络展览，“亮剑”行动展厅访问

量占总访问量的 25%。四是及时公布“亮剑”进展和重点案例。举行新闻发布会 4 次；分批次公布“亮剑”行动十大典型案例、十大之最案例、“7.20”系列特大制售假药案等重大典型案件，受到国内外广泛关注。

最高人民法院周密部署 2011 年全国知识产权宣传周活动，加大知识产权司法保护宣传力度。最高人民法院组织中央新闻媒体“知识产权司法保护江苏行”活动，充分展示地方法院知识产权司法保护成果；通过发布《中国法院知识产权司法保护状况（2010 年）》白皮书（中英文），举办全国法院知识产权司法公开座谈会，培训全国法院知识产权裁判文书上网工作信息员，开通升级改版的“中国知识产权裁判文书网”，发布《最高人民法院知识产权案件年度报告（2010）》，公布 2010 年中国法院知识产权司法保护十大案件和五十个典型案例等措施，积极推进司法公开。地方法院积极响应，天津、重庆、山东等地高级法院发布年度知识产权司法保护白皮书或者蓝皮书，公布当地的十大典型案例；广西高院建立了典型案例指导制度。

六、教育培训

2011 年，知识产权教育培训工作不断深化，人才队伍建设取

得新成绩。

国家知识产权局牵头落实《国家中长期人才发展规划纲要》十项重大政策之一的“实施知识产权保护政策”，制定《关于进一步加强职务发明人合法权益保护促进知识产权运用实施的若干意见（送审稿）》等一系列政策措施。制定出台《知识产权人才“十二五”规划》任务分工方案、年度工作计划和规划政策解读。制定《2011-2015年“百千万知识产权人才工程”实施方案》等工程计划的实施方案，出台了《关于加强知识产权人才工作的意见》、《2011年全国知识产权人才工作要点》等多项政策文件，加强对知识产权人才工作的宏观指导；根据《国家知识产权人才库与人才信息网络平台工作实施方案（试行）》，评选产生203名首批专家库专家；在全国范围内，新批复成立3家国家知识产权培训基地。

2011年，全国知识产权系统共举办各级各类培训班3000多期，培训人员达50多万人次，其中国家知识产权局委托培训项目100多期，培训人员1万多人次。涉外培训方面共举办25期国际培训班、涉外教师培训、研讨会及讲座，培训人数达1900人次，同比增长60%。

国家工商行政管理总局先后举办哈尔滨国家商标战略实施示范企业培训班和大连国家商标战略实施示范城市（区）培训班，为示范城市和示范企业的发展提供有力支持和服务；组织开展“新

疆商标战略宣讲”活动，在乌鲁木齐市、伊犁哈萨克自治州、巴音郭楞蒙古自治州开展了3场宣讲活动，共有1400多人听取了宣讲；积极开展马德里商标国际注册的培训、宣传，为企业实施“走出去”战略服务。

国家版权局开展多层次的版权知识培训。举办媒体记者版权相关热点问题媒体研讨班，就版权社会热点问题进行交流探讨，正确引导宣传导向；组织“全国核心版权经理人、代理人宣教研修活动”，进一步规范中国版权经理人、代理人的经营活动，为版权经理人、代理人正式列入国家职业分类并建立相应管理机制准备必要的基础性数据；继续举办“2011BIBF北京国际版权贸易研讨会”，深入探讨“数字环境下的‘走出去’”，为版权经理人和出版单位提供版权贸易的政策指导和实务解析。

农业部继续加强农业知识产权保护相关培训。举办了全国农产品地理标志产业经验交流暨核查员培训班、全国农产品地理标志综合业务能力培训班；联合宁夏、大连、山东、黑龙江、天津、新疆、云南等省（区、市）举办针对本地区、本行业的农产品地理标志核查员培训，2011年新注册核查员742人，累计培训注册核查员3571人。在甘肃、西藏、陕西、四川举办了4次全国农业植物新品种保护培训班，培训种子管理机构、科研院所、种子企业相关人员800多人次。

国家林业局持续推动林业知识产权保护培训工作。在云南昆明举办了林业知识产权保护与管理培训班，就知识产权法律制度、林业知识产权保护与管理现状、林业知识产权“十二五”规划、植物新品种权、专利申请、审批程序、林业知识产权信息平台 and 预警机制建设等内容进行了培训；举办林业植物新品种保护测试技术培训班 2 期，培训林业植物新品种保护技术人员 120 多人。

海关系统加强培训，提高一线关员执法能力。2011 年，全国海关共举办各类知识产权业务培训 100 多次，参训人数达 5 000 多人次。通过培训，增强了海关一线执法关员的知识产权意识，提高了查办侵权货物的执法能力。

最高人民法院不断加强知识产权审判基层基础和法官队伍建设，创新对基层工作指导方式。同高级法院举办各种形式的培训，加强基层法院知识产权法官到上级法院或兄弟法院的挂职交流，进一步提升基层法院知识产权审判能力和水平；实施加强知识产权审判基层基础建设“三五工程”，即在北京大学、中国人民大学、华东政法大学、西南政法大学、深圳大学设立知识产权司法保护理论研究基地；在已设立中国知识产权司法保护（苏州）调研基地的基础上，增设青岛、深圳、长沙、成都 4 个调研基地；决定北京市朝阳区、上海市浦东新区、江苏省苏州市虎丘区、浙江省义乌市、湖北省武汉市江岸区人民法院为知识产权审判基层示范法院。

七、国际合作

2011年，中国知识产权领域国际交流合作深入发展，中国知识产权国际地位不断提升，影响力逐步扩大。

国家知识产权局继续加强涉外知识产权统筹协调职能，积极组织相关部门参与知识产权国际事务，深入参与世界知识产权组织等各相关国际组织讨论进程，深化与各知识产权机构和组织的合作关系，提升合作层次，拓展多双边合作，合作伙伴不断增多，合作内容丰富深入。积极参加世界知识产权组织第四十九届成员国大会及第十八届专利合作条约国际单位会议等大型会议，与该组织在京联合举办“世界知识产权组织国家知识产权战略区域研讨会”并接待世界知识产权组织总干事正式访华，成功实现中国专利文献纳入世界知识产权组织《专利合作条约》（PCT）最低限度文献，联合举办第六届中蒙知识产权研讨会、中英知识产权研讨会、中非知识产权研讨会等，与日、德、法、英、美、韩、欧等国家（或地区）举行局长级双边或多边会谈，与波兰、柬埔寨、埃及、西班牙、吉尔吉斯斯坦、海湾合作委员会等签署谅解备忘录。

国家工商行政管理总局积极开展商标领域多边及双边交流合作项目，派员参加了世界知识产权组织、世界贸易组织、亚太经合组

织一系列相关会议，加强了与美国、欧盟、英国、日本、朝鲜、蒙古等各国商标主管机关及有关组织的交流合作。同时，继续积极派员参加世界知识产权组织等举办的各类知识产权培训。

国家版权局不断加强多边体制下的合作与应对水平。成功申办了世界知识产权组织保护音像表演外交会议；积极参与世界知识产权组织民间文艺、发展议程、版权常设会议等议题的相关工作；与世界知识产权组织深度合作，开展福建德化版权保护优秀案例示范点调研；举办数字环境下版权管理与执法研讨会；积极开展中美商贸联委会、中美战略与经济对话和中欧知识产权对话，积极落实中美、中英、中日等版权合作战略备忘录相关工作；积极参与中瑞、中哥自由贸易区谈判，以及中巴、中俄经贸分委会知识产权工作组会议工作。加强与东盟国家在版权领域的合作；认真应对世界贸易组织和亚太经合组织框架下有关版权事务，切实维护国家利益。

农业部派员参加了国际植物新品种保护联盟（UPOV）和东亚植物新品种保护论坛相关会议和活动；举办了中荷植物新品种测试技术培训；组织了中韩第四次工作组会议并签署了进一步合作备忘录；启动了中美合作植物新品种保护培训项目；参与了中欧、中瑞等双边及多边框架下的地理标志交流及知识产权工作组对话；全程参与了3轮中欧地理标志合作协议磋商；参加了第六次中欧农业农村对话及中瑞自由贸易协定；与韩国农林水产食品部就双边农产品

地理标志制度模式、进展情况和加强合作等方面进行了沟通和交流；积极推进中欧世贸二期地理标志合作，会同欧盟驻华代表团举办了“中国—欧盟农产品地理标志登记保护国际研修班”，就双方农产品地理标志登记保护工作及进一步加强中欧农产品地理标志交流合作事宜进行了深入研讨。

国家林业局积极履行《国际植物新品种保护公约》，派员参加了 UPOV 理事会会议、技术会议。同时，参加了韩国举办的东亚地区植物新品种保护研讨会，以及国际园艺生产者协会在中国举办的植物新品种保护会议，宣传了中国植物新品种保护成就。组织专家开展了“UPOV91 年文本对中国的影响”等相关履约对案研究；认真执行中荷植物新品种保护合作项目，荷方与中国农业、林业部门联合在京召开了项目总结会，全面总结了项目执行情况；组团参加了在印尼召开的东亚植物新品种保护论坛第四次会议；派员参加了《生物多样性公约 ABS 名古屋议定书》履约会议和联合国粮农组织遗传资源委员会第 13 次会议；参加了商务部组织的“中欧第九次知识产权工作组会议、中瑞第五次知识产权工作组会议、中澳第十七轮自贸区谈判”。

2011 年，中国海关不断拓展国际合作空间，积极展示中国政府打击侵权违法活动成果，减轻国际压力，不断加强和美国、欧盟、日本、韩国、俄罗斯等国家或地区之间的合作，签署合作备忘

录，开展执法交流、情报交换和执法培训，积极展示中国海关打击侵权活动的成果，维护国家声誉，降低国际压力。为了加强中美两国海关在知识产权保护方面合作，2011年5月，第三轮中美战略与经济对话（S&ED）在美国华盛顿举行期间，两国海关签署了《关于修订〈中美海关加强知识产权执法合作备忘录〉的确认函》。

China's Intellectual Property Protection in 2011

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

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

Table of Contents

I. Legislation	1
II. Examination and Registration	4
III. Enforcement	8
IV. Construction of Mechanism and Capability	20
V. Publicity	29
VI. Education and Training	37
VII. International Cooperation	41

China's Intellectual Property Protection in 2011

2011 was the opening chapter for the 12th Five-year Plan and the key year to fully implement the five-year tasks set in the *Outline of the National Intellectual Strategy*. Focusing on the transferring of economic development mode, Chinese government followed out the *Outline of the National Intellectual Strategy* in line with scientific development to aggressively step up IPR protection. Remarkable achievements were made in legislation, examination and registration, enforcement, construction of mechanism and capabilities, publicity, education and training, international exchange.

I. Legislation

In 2011, a series of laws, regulations and rules were made according to the needs of economic and social development with the outcome of a further improved IP law system.

The State Intellectual Property Office (SIPO) finished the *Revision Draft of Reg-*

ulations on Patent Commissioning (draft revised for approval) and submitted it to the Legislative Affairs Office of the State Council and played an active role in examination and discussion process. SIPO finished the drafting of the *Regulations on Service Invention* (draft revised for discussion) and the amendment of the *Measures on Registration of License Contract on Patent Implementation*. In addition, SIPO accelerated the drafting and revision of a host of departmental regulations, and the *Regulations on Priority Examination of Patent Application*, *Measures on Patent Markings and Labeling*, *Measures on Compulsory Licensing of Patent Implementation*, and *Administrative Reconsideration Procedures by State Intellectual Property Office*.

The State Administration for Industry and Commerce (SAIC) played active role in promoting the revision of *Trademark Law* in collaboration with the Legislative Affairs Office of the State Council. After thorough study and argumentation on such issues like trademark opposition with reference to public opinions, SAIC formulated the *Trademark Law (the Revised Draft for Second Round of Public Comment)* and further solicited opinions from the public in October, 2011.

The National Copyright Administration of China (NCAC) initiated the third revision of Copyright Law, issued the *Notice on Further Regulating Relevant Affairs Related to Works Registration Procedure*, worked out *Guiding Opinions on Copyright Enforcement* and *Regulations on Legal Payment for Textbook*, embarked on

the study and drafting of the *Ordinance on Software Application in Governments*, and participated in the revision of implementing opinions on provisions related to copyright in the criminal law.

The Ministry of Agriculture (MOA) conducted survey and studies on the revision of *Regulations on the Protection of New Varieties of Plants* and completed the draft for revision; formulated the *Naming Regulations on Agricultural Varieties of Plants*; promoted the study on relevant laws and international pacts on IP protection of biological genetic resources and organized the drafting of *Regulations on Registration and Management of Agricultural Genetic Resources Rights* (draft).

The Supreme People's Court (SPC) issued the *Opinions on Issues in Utilizing IP Trial to Promote the Great Development and Prosperity of Socialist Culture and Facilitate the Free and Coordinated development of Economy*; intensified the investigation into and study on core issues in IP Trial by drafting three regulatory documents for discussion—*Supreme People's Court's Interpretation Concerning Several Issues in the Application of Law During Adjudication of Civil Disputes of Infringing On-line Information Dissemination*, *Opinions on Several Issues Concerning the Trial of Administrative Cases Involving Patent Licensing and Confirmation*, and the *Opinions on Several Issues Concerning the Trial of Disputes Involving Patent Infringement*.

II. Examination and Registration

The year 2011 witnessed the remarkable advances in IP examination and registration and new breakthroughs in terms of quality and effectiveness in China.

In 2011, patent application in China maintained a rapid growth with 1,633,000 patent applications in total, which achieved a sound opening for the IP development in the 12th Five-year Plan. Among them, 526,000 were patents for invention, a year-on-year increase of 34.5% ; 585,000 were patents for utility model, a year-on-year increase of 42.7% ; 521,000 were patents for industrial design, a year-on-year increase of 23.8% .

By the end of 2011, there were 2,740,000 valid patents in total granted and maintained by SIPO. Among them, 697,000 were patents for invention, accounting for 25.4% of the total; 1,121,000 of which were patents for utility model, representing 40.9% of the total; 922,000 of which were patents for industrial design, representing 33.7% of the total. Among the valid patents maintained by SIPO, 2,303,000 were owned by domestic right holders, amount to 84.1% of the total; 437,000 were from abroad, amount to 15.9% of the total. With regard to the valid patents for invention, 351,000 pieces or 50.4% were owned by domestic right holders, exceeding for the first time the total number by foreign owners in

China.

In 2011, China further promoted patent examination and approval. The examination and conclusion of patent by SIPO maintained a steady increase. There were 271, 202 patents for invention, 443, 676 patents for utility model, and 502, 828 patents for industrial design substantively examined, with a year-on-year increases of 14.3% , 14.6% , and 14.2% respectively. In the meantime, the pendency for patent examination was reduced steadily to 22.9 months for invention patents, 4.7 months for utility model patents, and 2.6 months for industrial design patents respectively.

In 2011, SIPO received a total number of 17, 473 international applications under PCT, a year-on-year increase of 35.3% . 66, 320 international applications entered into China's national phase, a year-on-year increase of 6.0% , including 65, 996 invention patent applications and 324 utility model patent applications.

In 2011, SIPO accepted 12, 946 requests for reexamination, a year-on-year increase of 4.7% . As many as 2, 749 requests for invalidation were accepted, a year-on-year increase of 14% . In 2011, SIPO accepted 1, 464 applications for registration of layout design of integrated circuits, and 1, 329 registrations were published and certificates issued.

There were 1, 416, 785 trademark applications in China in 2011, a year-on-year increase of 32.14% . That volume was twice of that in 2008, which made China

rank No. 1 in the world for ten consecutive years. SAIC successfully completed the examination of trademark registration in 2011 after thoroughly eliminating the sluggishness in trademark examination in 2010. A total number of 1, 205, 529 trademark registrations were examined with shortened examination duration of 10 months. 56, 829 applications for opposition were settled, a year-on-year increase of 75. 14% . By the end of 2011, there were 9, 712, 000 trademark applications, 6, 651, 000 registered trademarks and 5, 510, 000 valid registered trademarks in total in China, all ranking first in the world. In terms of geographical indication, SAIC registered and preexamined 341 applications for geographical indication in 2011, which made the total number of registration and preexamination reached 1, 381. In 2011, SAIC authenticated 3, 187 well-known trademarks for higher-level protection as well.

Chinese nationals filed 2, 053 applications of Madrid international registrations for trademarks, a year-on-year increase of 12. 8% . The registration volume exceeded 2, 000 pieces in total since China joined the Madrid in 1989 with an accumulative number of 13, 297 pieces which made China No. 7 in the world and No. 1 among developing countries. Foreign applicants filed 18, 724 applications of Madrid international registration for trademarks, a year-on-year increase of 16% . The accumulative number totaled 167, 025 which made China No. 7 for seven consecutive years.

In 2011, SAIC accepted 74,000 new applications for trademark review in total, a year-on-year increase of 2.7%. By the end of 2011, a total number of 35,043 cases involving trademark review were examined. Among them, 26,840 cases were rejected for retrial; 8,203 complex cases involved disputes. The examination was concluded within 18 months.

In 2011, NCAC regulated the works registration by studying and promulgating the *Notice on Further Regulating Relevant Affairs Related to Works Registration Procedure*, which regulated the nationwide registration of works in terms of acceptance, examination, registration, certificating, information collection, and stimulation policy. These measures significantly advanced the public service functions and development of copyright industry. The total registration volume of copyrighted software reached 109,300, a year-on-year increase of 33.4%.

In 2011, MOA and the State Forestry Administration (SFA) steadily promoted the protection of new varieties of plants. MOA accepted a total number of 1,045 applications for new varieties of plants, exceeding 1,000 pieces again; preexamined 1,179 applications for new varieties of plant rights and granted 180 ones. 213 new geographical indications for agricultural produce in total were published in 2011, adding the total number to 748. The MOA accepted 8,807 applications for new variety rights since it took charge of relevant application, granted 3,713 new varieties of plants, and tested 6,487 new varieties of plants. SFA accepted 139 ap-

plications for new forestry variety rights in 2011, a year-on-year increase of 56.2% . Also, 52 such applications were substantively examined and 15 batches of granted rights were published.

In 2011, the General Administration of Customs (GAC) examined and approved 3,532 applications for recordation of customs IPR protection by IP right holders, adding the total number to 24,000.

III. Enforcement

A. Special operation

The Chinese government launched a 9-month-long nationwide Special Operation against IPR Infringement and Counterfeits(Hereinafter referred to as the Special Operation) from October, 2010 to June, 2011.

The Chinese government gave high priority to the Special Operation. Premier Wen Jiabao attended and addressed the nationwide digital video conference for IPR protection and enforcement to deploy relevant tasks. He also wrote foreword for the online exhibition for achievements by the Special Operation. Vice Premier Wang Qishan, head of the national leading group for the Special Operation, chaired several plenums to discuss and deploy the key steps. Due to the elaborate arrangements and aggressive efforts by various regions and IP-related departments,

a large number of high-profile cases involving IPR infringements and manufacturing and sale of counterfeited goods were cracked. A huge number of criminals were punished. In the meantime, a wide range of publicity activities were also carried out. During the Special Operation, administrative enforcement authorities at all levels registered 156,000 cases involving 3,430,000,000 yuan and raided 9,135 businesses manufacturing or selling counterfeit commodities. The Special Operation effectively deterred the rampant IPR infringements and manufacturing and sale of counterfeit and shoddy goods.

The Special Operation responded to the IPR concern in China by the international community and enhanced the government's reputation. It also met the demand for China to develop an innovation-oriented country and enhanced international competitiveness. Basically, the Special Operation fulfilled the expectations.

During the Special Operation, as many as 167,000 person times of enforcement officials were dispatched, over 2,286,000 pieces of goods were checked, 2,572 patent cases were investigated into and settled in total, over 80,000 pieces of infringing goods were confiscated; 665 cross-department and 1,092 cross-region enforcement actions were launched. A sound market environment was effectively guaranteed.

During the Special Operation, administrations for industry and commerce (AICs) at all levels across China dispatched a total number of 3,978,000 person

times of enforcement officials, inspected 9, 226, 000 businesses and 802, 000 various markets like wholesale and retail markets and fairs. 4, 966 businesses manufacturing or selling counterfeit commodities were raided. 1, 745 business licenses were revoked. 90, 700 infringement or counterfeiting cases were investigated and settled, including 13, 800 cases involving infringements of well-known trademarks, 13, 200 case involving exclusive rights of international trademarks, 648 cases involving exclusive rights of geographical indication trademarks, and 757 cases were transferred to judicial organs.

The General Administration of Press and Publication (GAPP), NCAC, and the National Anti-piracy and Pornography Office (NAPO) gave high priority to key tasks like source administration, market regulation, crackdown on illegal websites, investigation and settlement of key cases. During the Special Operation, local administrations registered, investigated, and settled 3, 381 cases, transferred 179 cases to judicial organs for criminal investigation. 692, 560 person times of enforcement officials were dispatched to inspect 334, 920 publishing and duplicating businesses, wholesale markets for books, software, audio-video products, and logistics businesses. Also, 663 illegal business premises were raided and 6, 194 illegal stands were banned with seizure and confiscation of 13, 360, 000 pieces of pirated products.

To address the pressing issues relating to IPR protection in cultural market, Min-

istry of Culture (MOC) deployed and launched special IP protection operation targeting cultural market with focus on key sectors like infringing online game, web music and cartoons, electric games, key areas circling Bohai Sea, Changjiang River Delta, Pearl River Delta, performance, entertainment, and web culture, high-profile typical cases. During the operation, cultural administrations and cultural market enforcement authorities nationwide dispatched over 8, 220, 000 person times of enforcement officials, registered, investigated and settled 5, 532 IP cases involving 28, 571, 600 yuan. In addition, MOC closed down 314 illegal music websites, raided 951 workshops producing infringing and pirated products, confiscated over 9, 530, 000 pieces of articles.

SFA drafted implementation program of special operation against infringements of new varieties of forest plants in line with the national Special Operation. SFA called a digital video conference to ensure the success of the special operation. SFA supervised the safeguarding and enforcement of new varieties rights of Beauty Elm and Red Poplar by forestry administrations in Hebei province and Henan province, which effectively deterred the rampant infringement of new varieties of forest plants.

During the Special Operation, China Customs inspected 12, 205 batches of infringing cargo and detained over 76, 150, 000 pieces of infringing articles in imports and exports, which effectively combated the infringements.

Public security authorities nationwide launched the Operation “Strike of the Sword” against IPR infringements and manufacturing and sale of fake and shoddy products. During the Operation, public security authorities nationwide uncovered 43,550 cases involving IPR infringements and production of shoddy goods worth 24,150,000,000 yuan or over 500,000,000,000 yuan in the value of genuine goods. Also, public security authorities seized and arrested 54,658 and 19,131 suspects respectively, and wiped out 7,731 wholesale gangs engaged in selling infringing and counterfeiting goods. The statistics were 10 times that in counterpart periods of previous years.

During the Special Operation, the procuratorate organs nationwide accepted 4,006 arrest approval applications relating to IPR infringement and counterfeits with 7,307 suspects involved in, prosecuted 2,986 cases involving 5,740 suspects. Among them, arrest approval applications of 2,374 cases involving 4,103 suspects were approved for IPR infringement, year-on-year increases of 108.4% and 121.3% respectively. 1,712 cases involving 3,093 suspects were prosecuted for infringing IPR, year-on-year increases of 36.3% and 42.8% respectively. Procuratorate organs nationwide advised 1,197 suspects in 1,627 cases relating to IPR infringement and manufacturing and sale of counterfeited and shoddy goods transferred from administrative authorities for examination and prosecution. Also, procuratorate organs supervised the registration of 86 cases involving 111 suspects

relating to IPR infringement by the public security authorities and designated 6 batches of 205 key cases for special supervision. Among such cases, arrest applications for 88 cases involving 218 suspects relating to IPR infringement were approved and 65 cases involving 173 suspects were prosecuted.

B. Regular enforcement

In 2011, IP-related departments strengthened regular enforcement with remarkable strength and effectiveness.

SIPO published a host of documents, like the *Decision on Strengthening Patent Administrative Enforcement*, formulated *Guidelines on Patent Administrative Enforcement*, and the *Registration Form for Patent Administrative Enforcement* to effectively advance and regulate the nationwide patent enforcement. In 2011, nationwide IP offices settled 3, 017 patent cases, a year-on-year increase of 65. 5% ; settled 1, 110 cases involving patent infringements on exhibitions. 175, 432 person times of enforcement officials were dispatched to inspect business premises 12, 346 times and 2, 507, 859 pieces of goods. Furthermore, in 2011, nationwide IP offices transferred 7 cases to public security authorities, accepted 14 cases transferred from other departments, launched 623 cross-department and 875 cross-region enforcement actions.

In 2011, AICs at all levels across China investigated and dealt with 79, 021 cases of trademark violations, a year-on-year increase of 41. 02% . Among them,

10,185 were general violations of trademark, and 68,836 were related to trademark infringement and counterfeiting. Among the cases involving trademark violation, 17,022 foreign-related trademark cases were investigated and handled. 11,802,249 illegal trademark labels were seized and removed. 415 suspects in 421 cases were transferred to judicial authorities for suspected trademark criminal violations.

In collaboration with the Ministry of Public Security (MPS) and the Ministry of Industry and Information Technology (MIIT), NCAC launched the 6th and 7th Swordnet Operation for cracking down on the online infringement and piracy. During the operation, local relevant authorities registered, investigated and settled 1,148 cases involving IPR infringement and piracy, among which 466 cases were subject to administrative punishment and 36 cases were transferred to judicial organs for criminal punishment. In addition, NCAC intensified proactive supervision on online copyright of 18 most popular video websites, like SINA and YOUKU to effectively regulate the copyright operation among these websites. Also, NCAC made stage achievements in promoting the application of legal software, from central government to local governments, from governmental agencies to public institutions and state-owned enterprises. The inspection and regulation of application of legal software among 135 agencies under Central Committee of the Communist Party of China and the State Council were completed before the end of May,

2011. Relevant work was also being carried out in local governments progressively. Application of legal software in enterprises was also spread broadly. The headquarters of all state-owned key enterprises and most of second-and third-class affiliated enterprises as well as large-scale banks and insurance corporations had already applied legal software. Key industries such as coal mining, tourist hotels, Internet Cafés, and survey and design institutions also made breakthrough in application of legal software.

MOC issued quarterly key enforcement tasks and notice on general enforcements to guide local cultural administrations and general enforcement agencies for cultural market to launch regular enforcement and severely punish infringements and piracy in cultural business. To address the pressing issues in cultural markets like online music and games, MOC published 9 batches of blacklists involving illegal online cultural products and illegal cultural websites to further intensify the enforcement for online cultural market and protect online cultural IPR. According to statistics, cultural administrations nationwide and cultural market enforcement agencies for cultural market dispatched over 12,251,000 person times of enforcement officials in 2011, up 50.4% compared with that in 2010. These administrations and agencies inspected over 7,419,000 businesses on cultural market, ordered the regulation of over 208,000 businesses, accepted over 48,500 pieces of complaints and reports, registered and investigated over 63,700 cases, transferred over 3,504

cases, concluded 57,000 cases, warned over 102,000 business times, imposed over 191,000,000 yuan in fine, confiscated illegal incomes valued at more than 4,109,000 yuan, closed down over 17,500 businesses for regulation, revoked 376 licenses.

In 2011, MOA intensified IPR protection in agriculture via strengthened source regulation. MOA conducted the supervision on seed production license after the release to focus on the inspection of granting license without right holders' consent. Accordingly, over 470 such licenses were revoked and withdrawn. In addition, agricultural administrations launched comprehensive inspection on markets. 38,000 batches of seed samples were collected, over 450 businesses involved in infringement and counterfeiting were spotted, among which over 300 businesses were informed and warned for their misconducts. 19 business licenses were revoked. MOA, in the meantime, severely punished the cases involving variety right infringements. According to incomplete statistics, MOA investigated and settled 123 such cases in total in 2011, involving 2,000,000 kilograms of infringing or fake seeds valued at more than 30,000,000 yuan, and disclosed over 20 businesses which produced and sold infringing and fake seeds. To combat the rampant production and sale of infringing and fake seeds, MOA delivered comprehensive identification service for genuine variety rights and strengthened the whole-process supervision on seed industry in line with the principles of "synchro inspection and

crackdown and localized administration” to protect new variety of plant rights and maintain a fair and orderly environment for seed industry.

In 2011, China Customs gave full play to supervision and administration on imports and exports, inspected and settled IP infringements activities actively. According to incomplete statistics, China Customs detained over 18,000 batches of cargoes suspicious of infringement, involving 103,000,000 pieces of goods in the whole year.

C. Judicial IPR Protection

The year 2011 witnessed the intensification of judicial IPR protection and the role of judicial protection for IPRS had been further strengthened.

People’s courts nationwide tried IP-related cases lawfully, fairly, and effectively and public confidence in the judicial protection of IPR were further enhanced. The central role of civil trial in judicial protection of IPR was further extended. In 2011, people’s courts nationwide received 59,882 first-instance IPR civil cases and concluded 58,201 ones, year-on-year increases of 39.48% and 39.51% respectively. Among them, there were 7,819 patent cases, a year-on-year increase of 35.16% ; 12,991 trademark cases, a year-on-year increase of 53.56% ; 35,185 copyright cases, a year-on-year increase of 42.34% ; 557 technology contract cases, a year-on-year decrease of 16.87% ; 1,137 unfair competition cases (including 18 first-instance monopoly civil cases), a year-on-year increase of 0.53% ;

2, 193 other types of IPR cases, a year-on-year increase of 11.55% . The courts concluded 1, 321 first-instance IPR civil cases involving foreign parties, a year-on-year decrease of 3.51% ; 635 first-instance IPR civil cases involving parties from Hong Kong, Macao and Taiwan, a year-on-year increase of 128.42% . People's courts nationwide received and concluded 7, 642 and 7, 659 second-instance IPR civil cases (including those from previous years), year-on-year increases of 17.17% and 18.18% respectively; received and concluded 294 and 224 retrial cases, year-on-year increase of 164.86% and 105.50% respectively. Mediation of IPR lawsuits was further systemized and regulated. The average withdrawing rate of first-instance IPR civil cases through mediation reached 71.32% , a year-on-year increase of 4.56% .

IPR administrative trial further exerted its supervision and support on administrative enforcement. People's courts nationwide received and concluded 2, 433 and 2, 470 first-instance IPR administrative cases (including those from previous years). Among them, 986 concluded cases involved foreign parties, and 251 cases involved parties from Hong Kong, Macao and Taiwan. In 2011, people's courts nationwide received and concluded 1, 333 and 1, 266 second-instance IPR administrative cases, received and concluded 3 retrial and 1 IPR retrial administrative cases respectively.

IPR criminal protection was further strengthened and IPR criminal trial effective

punished and deterred IPR crimes. People's courts nationwide concluded 5,504 first-instance IPR criminal cases, a year-on-year increase of 39.62% ; concluded 166 second-instance IPR criminal cases. Among the cases concluded, 7,950 criminals were sentenced and 7,892 were treated with criminal punishment.

Procuratorate organs nationwide seriously fulfilled the functions of judicial supervision like approval of arrest and prosecution and focused on the fight against IPR criminal violations.

In terms of examination and approval of arrest, the procuratorate organs nationwide accepted 4,370 arrest approval applications relating to IPR criminal cases with 7,806 suspects involved in, year-on-year increases of 131.6% and 131.8% respectively. After examination, 5,952 suspects in 3,532 cases were approved for arrest, year-on-year increases of 127.8% and 125.5% respectively. Among them, 1,101 cases or 31.2% involved trademark counterfeiting, a year-on-year increase of 3.5% ; 363 cases or 10.3% involved copyright infringement, a year-on-year increase of 7.3% ; and 5 cases or 0.14% involved patent infringement, breaking up nought.

In terms of examination and prosecution of IP infringement crime cases, procuratorate organs nationwide accepted 11,147 suspects in 5,690 IPR cases transferred from public security authorities, year-on-year increases of 170.4% and 157.8% respectively. After examination, 6,870 suspects in 3,786 IPR cases were prosecu-

ted, year-on-year increases of 124.1% and 123.1% respectively. Among them, 1,166 cases or 30.8% involved trademark counterfeiting, a year-on-year decrease of 3.8%; 610 cases or 16.1% involved copyright infringement, a year-on-year increase of 12.1%; 5 cases or 0.1% involved patent counterfeiting, a year-on-year increase of 0.04%.

For supervision on registration of criminal cases, procuratorate organs nationwide accepted unregistered 41 pieces of clues relating to IPR infringement which should be registered by public security authorities, a year-on-year increase of 86.4%. After examination, 32 registrations by public security authorities were supervised. Among them, 14 cases or 43.8% involved trademark counterfeiting, a year-on-year decrease of 24.1%; 3 cases or 9.4% involved copyright infringement, breaking up nought.

IV. Construction of Mechanism and Capability

In 2011, IP-related departments in China stepped up capability construction by exploring fresh service and innovating working approach. The long-term mechanism for IPR protection in China was further improved.

To transform the economic development model, adjust economic structure, realize scientific development, strengthen the development of an innovation-oriented

country, and enhance the competitiveness in the world, Chinese government decided to establish a long-term mechanism for fight against IPR infringements and counterfeits. In November 2011, the State Council issued the *Opinions on Furthering the Crackdown on IPR Infringements and Counterfeits by the State Council* (Hereinafter referred to shortly as the *Opinions*) after the conclusion of the Special Operation. As the guiding document for fight against IPR infringements and counterfeits, the *Opinions* specified 12 measures in 4 aspects for various regions and IP-related departments to advance tasks and fulfill obligations. Meanwhile, a national leading group composed of 29 member units for fighting against IPR infringements and counterfeits headed by Vice Premier Wang Qishan was established, with office in the Ministry of Commerce for daily operation. Under the assignment of the national leading group, the member units closely collaborated to implement the requirements by the *Opinions* for intensified fight against IPR infringements and counterfeits.

Giving full play to organizing and coordinating functions, 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 three consecutive years. To strengthen the communication with IPR owners, SIPO held IP Protection Symposium of Foreign Investment Institutions for four consecutive years and IP Protection Symposium of

Domestic and Hong Kong-funded, Macau-funded, and Taiwan-funded Enterprises. To constantly consolidate trans-provincial patent enforcement mechanisms in Zhujiang River Delta, Changjiang River Delta, and those neighbouring Bohai Sea as well as 16 provinces (municipalities) in middle China, 12 provinces (municipalities) in western China, three provinces in the north-eastern China, and Guangdong-Chongqing, SIPO and MPS jointly published *Notice on Developing Cooperation Mechanism to Strengthen IPR Protection*. In addition, the SIPO formulated and published the *12th Five-year Plan on National Intellectual Property Development* to introduce the development program for IPR enforcement capability in collaboration with 9 central departments including the National Development and Reform Commission (NDRC), and the Ministry of Science and Technology (MST), strengthen IPR protection and administration mechanism, and constantly promote the development of integrated IPR protection system.

By the end of 2011, SIPO along with 12 provincial governments established cooperation and consultation system on IP affairs. A total number of 55 local IP offices were included in the “5 · 26” patent administrative law enforcement promotion project and 38 judicial agencies, research institutes, and legal service agencies were listed as the key national liaison objects for patent protection. A nationwide network for IP protection, assistance, reporting and complaining is being developed with the establishment of 75 IPR protection and assistance centers. The influ-

ence of IPR assistance service telephone hotline “12330” was gradually spreading.

To enhance the quality and effectiveness of trademark examination and review, SAIC constantly innovated working mechanisms involving new trademark examination and case trial and improved trademark examination, disagreement, and review procedures; issued the *Evaluation Measures on Demonstration Enterprise for National Trademark Strategy Implementation* and the *Evaluation Measures on Demonstration City (Region) for National Trademark Strategy Implementation* to further promote the implementation demonstration of national trademark strategy.

NCAC strengthened the construction of mechanisms and capabilities. During the Special Operation, NCAC intensified the linkage mechanism between administrative, criminal, and judicial protection of IPR to effectively launch criminal punishment on infringement and piracy. To ensure the timely and effective flow, reporting and dissemination of information, NCAC established close information exchange channel with provinces. To enhance the enforcement capabilities, NCAC held 4 training sessions on copyright enforcement in Ningxia, Henan, Tianjin, and Beijing to educate copyright enforcement officials from provincial, municipal, and county governments as well as officials from public security authorities, and procuratorate organs of 31 provinces (autonomous regions, municipalities). On application of legal software, NCAC drafted the *Ordinance on Application of Legal Software in Government* to promote the long-term mechanism.

Online cultural business featured in intensive technologies, rapid flow of information, wide influence, and defiance of location. Accordingly, MOC issued *Notice on Establishing Enforcement Cooperation Mechanism for Online Cultural Market by Ministry of Culture* to integrate enforcement resources, strengthen market supervision, and to innovate on enforcement mechanism for online cultural market. To supervise online cultural market regularly, integrate enforcement, take charge of regular supervision, enforcement cooperation, and deal with emergencies, MOC selected many local online cultural market enforcement officials to establish Enforcement Cooperation Group. To enhance online enforcement exchange and cooperation of different regions and officials, MOC designated 24 key cases in two batches for supervision and 13 enforcement agencies with Beijing Cultural Law Enforcement Agency and Shanghai Cultural Law Enforcement Agency as the heading agencies as well as online cultural market enforcement cooperation groups and backbone enforcement officials to focus on the settlement of these cases.

To enhance the construction of mechanism and capabilities, MOA improved the technological systems like enforcement and authentication. It organized the research on standards of DNA map identification by fingerprint of 8 major main crops, like wheat and soybean. It guided some variety testing institutions and agricultural research institutions to apply for the qualification authentication of judicial and quality identification. MOA included new provincial geographical indication a-

gencies of agricultural produces in Qingdao and Hainan for marine fishing industry, adding the total number to 55. It also commissioned 3 new quality authentication and testing agencies for geographical indication of agricultural products, adding the total number of such agencies to 93; established construction program like technology supporting system for new varieties of agricultural produces. To develop social force in fighting against infringement and counterfeit, MOA set up Seed Industry Intellectual Property Alliance and published *Declaration on Self-regulation and Rights Protection by Seed Industry Intellectual Property Alliance*; conducted research on technological specifications for geographical indication of agricultural products, quality supervision, supervision tracing, international cooperation and mutual recognition, development status quo and mechanism.

To strengthen basic work in intellectual property in forestry, SFA operated the China Forestry IP Website, published *Annual Report on Forestry Intellectual Report 2010*, studied and formulated *12th Five-year Development Plan of Forestry Intellectual Property (Draft for Comment)*, improved basic database of forestry intellectual property, launched the development of information platform of forestry intellectual property and pre-warning mechanism.

In closer collaboration with public security authorities, administrations of commerce and industry, quality supervision agencies, commerce departments, and IP offices in enforcement cooperation, China Customs stepped up fight against IPR

violations in particular strengthened teamwork with public security authorities. China Customs transferred timely information to public security authorities when spotting clues of key cases. Customs districts in Shanghai, Guangzhou, Ningbo, Shantou strengthened communication with local IP-related departments by establishing cooperation mechanism with public security organs, administrations of commerce and industry, and people's courts to fight against IPR infringements collectively. Customs districts in Hangzhou, Xiamen, Nanjing, Beijing, and Chongqing collaborated in information sharing, case reporting, and case clues transfer with local public security authorities, people's courts and administrations of commerce and industry.

Along with application of innovative techniques in IPR protection, MPS made remarkable achievements in strengthening the development of long-term mechanism; took proactive measures and mainly targeted key cases and thorough crackdown via scientific techniques and information technology; unfolded a new model of cracking cases in focused fight. To enhance the organization, MPS strengthened the functions of ministerial and provincial authorities and applied grassroots commanding, which significantly promoted the effectiveness. To enhance the enforcement capacity and regulation, MPS issued the 16 *Techniques in Fight against Infringement Crimes* to local authorities; held or assisted the training classes, and conducted special study to enhance enforcement capabilities and regulation level.

In collaboration with SPC and SPP, MPS formulated the *Opinions on Several Issues Concerning the Applicable Law in the Handling of Intellectual Property Criminal Cases* to resolve the thorny issues in IPR enforcement, like case jurisdiction and identification of character. To address the identification of trademark and authentication of crime of manufacturing fake medicine, MPS consulted with SAIC and the State Food and Drug Administration (SFDA) for professional opinions on legal issues. In collaboration with the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), SAIC, SFDA, MPS established new cooperation mechanism featuring in timely exchange of crime clues and mutual supply of professional opinions, which facilitated the working framework linking administrative and criminal enforcement characterized by “information sharing and mutual supplement of advantages”.

SPC insisted on the reform and innovation in IPR trials and promoted the development of more rational IPR trial system and working mechanism. The pilot work of unifying the trial of IP civil, administrative and criminal cases under the IP tribunals was further carried out. The jurisdiction over IPR cases in grassroots and intermediary courts were further optimized. By the end of 2011, there were 5 high people’s courts, 50 intermediary people’s courts, and 52 grassroots people’s courts carrying out relevant pilot works. In 2011, the trial resource layout among people’s courts nationwide was further optimized. SPC designated the number of

grassroots courts in charge of general IP case, encouraged intermediate and basic-level people's courts to conduct cross-regional centralized jurisdiction, commissioned a number of grassroots people's court in charge of some patent cases to enhance a balanced and rational jurisdiction system IPR cases. By the end of December, 2011, the number of intermediate courts with jurisdiction over the authorization and ownership determination on patent, new varieties of plants, layout designs of integrated circuits, well-known trademarks, and general IPR cases had reached 82, 45, 46, 43, and 119 respectively as well as 3 experimental grassroots people's courts in charge of disputes involving utility model and industrial design. Innovate and develop dispute settlement mechanism linking litigation and non-litigation. IP tribunal under the SPC signed the *Memorandum on Mediation Mechanism for IPR Disputes* with the Internet Society of China to tap into the mediation function by industry society for more dispute settlement channels for parties.

SPP actively promoted the mechanism construction in line with the Special Operation. SPP issued the implementing measures to promote the “linkage system between administrative and criminal enforcement” after the General Office of Central Committee of Communist Party of China and the General Office of the State Council transmitted the *Opinions on Strengthening the Linkage between Administrative and Criminal Enforcement* drafted by the Legislative Affairs of the State Council. The “network linking and information sharing” mechanism driven by procuratorate

organs was rapidly developed and played important role in the Special Operation.

V. Publicity

To further optimize IPR protection environment, IP-related departments in China constructed multi-dimension publicity network to elaborately organize various publicity activities in line with own key tasks and time nodes in 2011.

The office under the national leading group of the Special Operation set up a two-way liaison mechanism with media and enforcement authorities. In collaboration with the Publicity Department of the CPC Central Committee and the State Council Information Office, the office opened special column and pages, published feature articles, held regular press conference, media communication meetings to cover the progress and achievements of the Special Operation, which significantly deterred criminals and propelled work. During the Special Operation, mainstream media published over 23,000 pieces of news items. To publicize the achievements by the Special Operation and enhance the IP awareness of the general public, the office of the national leading group organized member departments to launch the online exhibition of the Special Operation after its conclusion. As the innovative publicity activity, the exhibition presented a convenient platform which demonstrated all-around and objective achievements by the Special Operation via

Internet and facilitated the public participation. In the meantime, the online exhibition enhanced the IP awareness of the general public by means of online interview and discussion and comments by web users as well as interpretation of the Speciation Operation, reply for questions from visitors, and education programs for identifying counterfeits and prevention from frauds. The online exhibition also played a bigger role in delivering warning and education for infringements and counterfeits warning as well as establishing an effective platform for strengthened IP protection.

Centering on key development programs in economic and social development and focusing on disseminating the implementation of National IP Strategy, SIPO elaborately organized the “2011 National IP Publicity Week” themed in “IP drives economic transformation” in collaboration with 25 ministries and commissions including the Central Publicity Department. During the Week, related departments launched startup ceremony, held up press conferences, organized high-level forum, published *China’s Intellectual Property Protection in 2010*, held training class, lecture, and consultation, conducted public survey, shot free TV commercial. The concentrated publicity achieved sound publicity result and feedback.

In collaboration with SAIC and NCAC, SIPO organized the National Selection of Influential Events and Figures in IPR Protection to spread the influence of IPR protection. To organize and celebrate the 3rd anniversary of the implementation of

the National IP Strategy, the 5th China Patent Week, the 13th China Patent Awards Ceremony and other important events, SIPO organized special publicity activities. SIPO held 6 press conferences as well as thousands of report conferences and training classes and disseminated nearly 100,000 pieces of publicity brochures. According to incomplete statistics, free TV commercial for 12330, a hotline established for IPR reporting, complaints and assistance, was broadcast over 60,000 times. Official website of SIPO selected, compiled, and published over 19,000 pieces of news, among which 85% was republished by mainstream media from home and abroad.

SAIC elaborately organized publicity activities during the “2011 National IP Publicity Week”, during which SAIC published the *Annual Development Report on China’s Trademark Strategy 2010* (in Chinese and English version), participated in the startup ceremony of the “2011 National IP Publicity Week” and the press conference on the publication of *China’s Intellectual Property Protection in 2010*; conducted the selection of candidate for China Trademark Awards with WIPO to award the excellent agencies and figures for trademark registration, utilization, protection, and administration; held press conference on achievements by AICs nationwide in the Special Operation; commissioned special columns on newspaper, held article-soliciting activity to create favorable public opinion climate and sound social environment; held contest on trademark, cultural festival on geographical

indication, and production of special TV program to make wide-spread propaganda and enhance the public consciousness of geographical indication.

Centering on the “2011 National IP Publicity Week” and the 20th anniversary of the implementation of *Copyright Law*, GAPP, NCAC, NAPO, and CCTV kicked off the “Green Bookmark Campaign 2011—Say No To Piracy, Starts From Me” and other publicity activities. In collaboration with Legal Channel of CCTV, NCAC filmed 5 special programs for copyright protection named as Frontline to explain hot copyright issues and spread knowledge in copyright protection; successfully held the 3rd Award Ceremony on National College Students Writing Contest on Copyright and Ceremony on Donating Copyright Bodyguard. Copyright administrations in Yunnan and Jiangxi held a series of publicity activities like knowledge contest on copyright and signing ceremony on copyright protection in campus to create sound environment of public opinion for respect for knowledge, working, creation, and copyright. NCAC also rewarded 137 local administrations and 122 officials in cracking and settling infringement and piracy cases in 2011 and published top 10 copyright infringement cases like Qishi Music in Anhui province to enhance the enforcement enthusiasm of local administrations.

MOC strengthened the publicity on legal system and improved “12318” system—a reporting and supervision system. It issued the *Notice on Launching Publicity on Legal System of Cultural Market by the General Office of Ministry of Culture* to

conduct relevant publicity activities nationwide in February, 2011. On 18 March, local cultural administrations and cultural market enforcement agencies launched the publicity programs for legal system of cultural market with focus on the “12318” system by virtue of newspaper, broadcasting, TV, and Internet.

MOA invited CCTV-1, CCTV-7, *People’s Daily*, *Farmer’s Daily*, and Xinhua News Agency to report the national field meeting on fighting against infringing variety rights of plants and fake seeds and publicized the IPR protection in agriculture. MOA published *Open Letter to Owners of Variety Rights* and *Open Letter to Seed Producers and Dealers* on *Farmer’s Daily*, *Science and Technology Daily* to spread knowledge of variety rights. To mark the 50th anniversary of International Union for the Protection of New Varieties of Plants, MOA compiled and published the *Protection of New Varieties of Plants in China*. It actively participated in the 2011 China Agricultural Trade Fair and China Green Food Exhibition organized the issuance and dissemination of geographical indication of agricultural products in Beijing, Gansu, and Liaoning to spread the fame and influence of geographical indication of agricultural produces. MOA participated in the 18th China Yangling Agricultural Hi-Tech Fair and held a series of activities like special demonstration on protection of new variety of plants, information conference on new variety of plants, signing ceremony on transfer of variety rights, and consultation by examiners from the Office for the Protection of New Varieties of Plants under Ministry of

Agriculture. Nearly 10,000 replies and consultation were delivered and over 30,000 pieces of information sheets on protection of new variety of plants were provided.

In line with the “2011 National IP Publicity Week”, SFA strengthened the publicities. It held high-level forum on forest IP themed in “IP and modern forestry” and achievement demonstration themed in “strengthen IP to sustain modern forestry development”, which was published on a special column in *China Green Times*. On the Conference on Protection of New Varieties of Plants in Zhejiang Province jointly held by the Office for the Protection of New Varieties of Plants of Zhejiang province, SFA introduced achievements in and procedures for protection of new varieties of forest plants. It sent experts to deliver special lectures on protection of new varieties of plants, IP information platform and pre-warning system on the training workshop on protection and management of forestry IP by Jiangxi Forestry Administration, which significantly enhanced awareness of IPR protection. SFA published and sent the brochure of forestry IPR protection to forestry administration and pilot unit of forestry IP.

In 2011, China Customs strengthened IPR publicity via multiple channels, such as Internet, newspaper and periodicals, and TV programs, which publicized the achievements and resolve in fight against IPR infringements as well as developed an influential publicity climate.

To enhance publicity effectiveness, GAC held online press conference to demonstrate the role by China Customs during the Special Operation. On the Summit Forum on International Development Strategy of China's Outstanding Indigenous Brands, GAC presented the measures and achievements in the protection of indigenous IP by China Customs. Also, GAC participated in the online interview and discussion on IPR protection by China Customs at [www. people. com. cn](http://www.people.com.cn). In addition, GAC exchanged IPR protection by China Customs and the achievements when receiving the Commissioner of German Customs Authority, the United States ambassador to China, Deputy Assistant Secretary of the United States Department of Commerce, representatives from Her Majesty's Revenue and Customs and UK IP Office, new Korean ambassador to China, and counselor in charge of customs affairs from French embassy to China. The fruits in IPR protection by China Customs won the understanding and high praise and the only "Best Government Agency in Anti-Counterfeiting Award" by Global Anti-Counterfeiting Organization.

MPS launched various publicity and education programs. Firstly, special featured activities on publicity were vigorously carried out. MPS launched deep and wide-spread publicity via special TV program, special interview, special column on newspaper, news items from Xinhua News Agency, and special column on Tencent. Secondly, infringement and shoddy goods were collected and destroyed. On the "Economic Investigation Publicity Day" of May 15 and November 6, MPS or-

ganized two massive destructions in nearly 200 cities nationwide, with devastation of over 31,200,000 pieces of fake or shoddy goods. CCTV conducted live broadcasting and various media delivered constant reporting on the destruction, which gained wide-spread social feedback. Thirdly, exhibition of achievements of the Special Operation was held. MPS actively participated in the online achievements demonstration of the Special Operation. The achievements by the Operation Strike of the Sword were visited by 25% of total online visitors. Fourthly, the progress and key cases of the Operation Strike of the Sword were published in time. MPS held 4 press conferences and published 10 typical cases in the Operation Strike of the Sword and the crackdown of case involving production and sale of fake medicines on 20, July. Home and international communities paid great attention to these achievements.

SPC made elaborate arrangements for the National IP Publicity Week to strengthen publicity on IPR judicial protection. SPC organized the publicity tour to Jiangsu participated by the central media to fully display the achievements of IPR judicial protection by local courts. To promote the openness in justice, SPC published the white paper *Intellectual Property Protection by Chinese Courts in 2010* (in both Chinese and English), held national workshop on judicial openness, launching training program for liaison officials engaged in publishing judgments and decisions online, operated the upgraded the [www. IPR. chinacourt. gov. cn](http://www.IPR.chinacourt.gov.cn),

published the *Annual Report on IP Cases by the Supreme People's Court (2010)*, released the introduction of 10 most influential cases and 50 typical cases in judicial IPR protection in China in 2010. To correspond to the call for openness in IPR judicial protection, local high people's courts in Tianjin, Chongqing, and Shandong published annual white papers or blue papers on IPR judicial protection or top 10 typical cases. High people's court in Guangxi established the guiding system for typical cases.

VI. Education and Training

In 2011, IP education and training work was further promoted with remarkable achievements in talents development.

SIPO took the lead to implement the “execute IPR protection policy”—one of the ten key policies in the *National Program for Medium- and Long-term Talent Development Program*, formulated a host of policies and measures, like *Opinions on Further Strengthening the Legal Rights of Owner of Service Invention and Promoting IP Utilization and Implementation* (draft revised for discussion). SIPO promulgated the task division, annual working schedule, and interpretations of the 12th *Five-Year Plan for IP Talents*. It formulated implementation programs for the project like *Implementation Plan for High-level Training Candidates of Hundred*

and Thousands of IP Talents Project 2011-2015 and *Opinions on Strengthening IP Talents Work*, and *Key Tasks of IP Talents Work 2011* to strengthen the macro guidance on IP talents work. According to the *Implementation Plan for National IP Talent Pool and Talent Information Web Platform (trial implementation)*, SIPO selected the first batch of 203 IP experts for expert database. In addition, SIPO approved 3 new national IP training centers.

In 2011, IP offices nationwide organized over 3,000 training sessions with over 500,000 participants. Among, SIPO commissioned over 100 training sessions with over 10,000 participants, including 25 international training sessions, training program for teachers engaged in international class, workshops, and lectures with a total number of 1,900 person times, a year-on-year increase of 60% .

SAIC held successively training sessions for demonstration enterprises of national trademark strategy implementation in Harbin and for demonstration city (region) for national trademark strategy implementation in Dalian to support and service the development of the enterprises and city (region); held publicity activities concerning Xijiang trademark strategy Urumqi, Yili Kazakh Autonomous Prefecture, and Ba Yin Guo Le of Mongolia Autonomous Prefecture with over 1,400 participants; actively launched training on Madrid international registration for trademarks to deliver service for Chinese enterprises doing business overseas.

NCAC delivered multi-layered training program on copyright. To guide the

proper publicity orientation, NCAC held workshops for reporters and journalists to exchange views on some hot copyright issues. To regulate the operation by copyright managers and agents, NCAC organized publicity and study program for key copyright managers and agents to prepare necessary basic data for the inclusion of them into the national profession classification and the development of corresponding management system. NCAC organized the Beijing 2011 BIBF International Copyright Trade Seminar under the theme of “copyright trade in digital era” to deliver policy guidance, analysis, and interpretation on copyright practice relating to copyright trade for copyright managers and publishing houses.

MOA intensified training on IPR protection in agriculture. It held national training sessions for experience exchange and examiners of geographical indication of agricultural produces as well as training session on general capacity development relating to geographical indication of agricultural products. In collaboration with Ningxia, Dalian, Shandong, Heilongjiang, Tianjin, Xinjiang, and Yunnan, MOA held training sessions for examiners of geographical indication of agricultural products. There were 742 newly registered examiners and a total number of 3,571 examiners who received relevant training. MOA held 4 national training sessions on new varieties of agricultural produces in Gansu, Tibet, Shaanxi, and Sichuan for over 800 trainees from seed administrations, research institutions, and seed businesses.

SFA constantly promoted the IPR protection in forestry. It organized training session for forestry IPR protection and management , involving IP legal system, status quo of forestry IPR protection and management, the *12th Five-year Plan of Forestry IPR*, new varieties of plants, patent application, examination and approval procedures, the development of information platform of forestry IPR and pre-warning system. SFA also organized two training sessions on testing technology for new varieties of forestry plants for over 120 relevant professionals.

China Customs strengthened training to enhance the enforcement capability of frontline officials. In 2011, China Customs held over 100 IP-related training sessions with over 5,000 person times. The training programs enhanced the IP consciousness of frontline officials and enforcement capability of inspecting and settling infringing goods.

SPC constantly strengthened the local IPR trials and training of IPR judges, innovated guidance on local people's courts. In collaboration with high people's courts, SPC held various training sessions and exchange local judges in charge of IP cases to higher courts or counterpart courts to enhance their trial capability. It set up research centers of IPR judicial protection in Peking University, Renmin University, East China University of Political Science and Law, Southwest University of Political Science and Law, and Shenzhen University to strengthen the local IPR trial and groundwork. Based on the research and study center of IPR judicial protection in

Suzhou, SPC also established another 4 new centers in Qingdao, Shenzhen, Changsha, and Chengdu. People's courts in Chaoyang district of Beijing, Pudong district of Shanghai, Huqiu district of Suzhou in Jiangsu, Yiwu of Zhejiang, Jiangan district of Wuhan of Hubei were designated as the demonstration courts for IPR trial.

VII. International Cooperation

In 2011, China's international cooperation in IP field was further deepened and expanded, thus increasing China's international status and influence in this field.

SIPO continued to give a full play to its function of comprehensively coordinating foreign-related IP affairs by actively organizing related departments to engage in international IP affairs, thoroughly participating in the discussion by the World Intellectual Property Organization (WIPO). SIPO also deepened the cooperation with various IP agencies and organizations with higher-level exchange and expanded multilateral cooperation with more participants and more concrete content. SIPO also participated in the important international conference like the 49th Assembly of Member State of WIPO and the 18th International PCT Meeting; held WIPO Regional Symposium on National Intellectual Property Strategies and received the official visit to China by Direct General Francis Gurry of WIPO, and realized the inclusion of Chinese patent literature into minimum documentation under *Patent Cooperation Treaty*

(PCT); jointly held the 7th China-Mongolia Joint Conference on Intellectual Property Strategy, UK-China IP Conference, and China-Africa IP Conference; held bilateral or multi-lateral talks with commissioner-level representatives from Japan, Germany, France, UK, Korea, and EU, etc; signed understanding memorandum with Poland, Cambodia, Egypt, Spain, Kyrgyzstan, and Gulf Cooperation Council.

SAIC carried out a series of bilateral and multilateral exchange and cooperation programs in the trademark field by dispatching representatives to multilateral meetings of the WIPO, WTO and APEC; strengthened the exchange and cooperation with trademark administrations and organizations in U. S. , EU, UK, Japan, North Korea, and Mongolia. In the meantime, SAIC actively sent representatives to various IP training programs by international organizations like WTO.

NCAC constantly strengthened the cooperation and settlement under multi-lateral system. It succeed in applying for hosting Diplomatic Conference on the Protection of Audiovisual Performances under WIPO; actively participated in relevant work concerning folk arts, development agenda, standing copyright meeting; conducted research on copyright protection of porcelain made in Dehua to promote the development of porcelain industry in deep collaboration with WIPO; held Seminar on Copyright Management and Enforcement in Digital Era; actively conduct IP dialogues in China-US Joint Commission on Commerce and Trade, China - U. S.

Strategic and Economic Dialogue, and Sino-EU IP dialogue to implement the relevant work in strategic memorandum on copyright cooperation with U. S. , UK, and Japan; actively participated in negotiations on free trade zone with Switzerland and Costa Rica as well as the work by IP working groups under Sino-Brazil Economic and Trade Committee and Sino-Russia Economic and Trade Committee; strengthened the copyright cooperation with ASEAN countries; seriously settle the copyright affairs under WTO and APEC to safeguard China's interests.

MOA sent representatives to the meetings and activities by the UPOV and the East Asia Forum of Protection of New Varieties of Plants; organized Sino-Netherlands training program on testing technology for the protection of new varieties of plants; organized the 4th China-Korea working group meeting and signed memorandum on further cooperation; unfolded joint training program on protection of new varieties of plants by China and U. S. ; participated in Sino-EU and Sino-Switzerland exchange projects and IP working group meeting under bilateral and multilateral framework for geographical indication; participated in the 3 rounds of negotiation on cooperation in geographical indication between China and EU; participated in the 6th China-EU dialogue on agriculture and countryside as well as free trade treaty between China and Switzerland; conducted communication and exchange on bilateral geographical indication system mode of agricultural produces, developments, and deeper cooperation with the Ministry for Food, Agriculture,

Forestry and Fisheries of Korea; actively promoted the cooperation in geographical indication under the Phase II of EU-China Trade Project and held EU-China Seminar on Registration and Protection of Agro-product Geographical Indications in collaboration with Delegation of European Union to China to conduct thorough study on registration and protection of agro-product geographical indications and strengthening relevant exchange and cooperation in this area.

SFA carefully carried out the *International Convention for the Protection of New Varieties of Plants* (UPOV), actively dispatched participants to council and technological meetings under UPOV. It sent representative to the Seminar of East Asia Protection of New Varieties of Plants held by Korea and meeting on protection of new varieties of plants by International Association of Horticultural Producers to publicize the new achievements in the protection of new varieties of plants in China. SFA organized relevant experts to study the treaty implementation like the influence of UPOV in 91 on China; seriously preformed the Sino-Holland cooperation on protection of new varieties of plants. Holland and forestry and agricultural administrations in China summarized the overall project implementation by jointly holding a project conclusion meeting; sent delegation to the 4th session of the East Asia Forum on Protection of New Varieties of Plants in Indonesia; sent representatives to the implementation meeting of *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Uti-*

lization to the *Convention on Biological Diversity* and the 13th meeting by the Commission on Genetic Resources and Biodiversity under the Food and Agriculture Organization of the United Nations; participated in the 9th Sino-EU IP working group meeting, the 5th China-Switzerland IP working group meeting, and the 17th round negotiation on free trade between China and Australia organized by the Ministry of Commerce.

GAC continued to expand international cooperation and demonstrate the achievements by the Special Operation for less international pressure. It constantly carried out the cooperation with U. S. , EU, Japan, Korea, and Russia by signing cooperation memorandums, launching enforcement and intelligence exchanges, and enforcement training to demonstrate the achievements by China Customs during the Special Operation, maintain China's reputation, and lessen international pressure. To strengthen cooperation in IPR protection between customs of China and the United States, GAC and the U. S. Customs signed the *Confirmation Letter for Revising the Memorandum on Cooperation on Strengthening Cooperation in Border Enforcement of Intellectual Property Rights between the General Administration of Customs of the People's Republic of China and Customs and Border Protection of Department of Homeland Security of the United States of America* during the third round of Sino-US Strategic Economic Dialogue in Washington in May 2011.