

Status of Intellectual Property Rights Protection in Shanghai in 2005

In 2005, with improving protection for intellectual property rights as a fundamental task to ensure China's economic development as well as to promote China's openness to the world, the Chinese Government steadily strengthened IPR protection and dedicatedly fulfilled China's WTO commitments. The Shanghai Municipal Government paid much attention to IPR protection, with a focus on the strategy of developing the Shanghai Municipality in reliance upon science and technologies. The local government made great efforts to carry out the *Shanghai Strategic Outline on Intellectual Property Rights* and actively implemented related projects listed in *the Promotion Plan on Shanghai IPR Strategic Outline*. Pursuant to the arrangements of the State Council and by highlighting the key aspects to enhance the law enforcement, the Shanghai Municipal Government took special actions as well as explored long-term mechanism for IPR protection. These efforts have led to much progress in maintaining the market economic order and improving the investment environment of Shanghai, both resulting in a much more competitive Shanghai.

I. Highlight Key Aspects and Unify Efforts to Strengthen IPR Protection

The Shanghai Municipal Government made the special actions for IPR protection one of its priorities in 2005. It explicitly authorized the General Office of Shanghai Intellectual Property Rights Joint Conference and the Shanghai Leadership Office for Rectification and Regulation of the Market Economic Order to coordinate relevant administrative authorities so as to regulate, supervise and facilitate their law enforcement activities. It was by the coordination of the foregoing two Offices that 31 specific programs of IPR protection actions were made. In the course of carrying out these actions, the Shanghai Municipal Government insisted on the combination of combating actions with preventive measures, daily enforcement with special rectification, rectification of key aspects with creation of overall atmosphere as well as active protection of market order with exploration of effective long-term IPR protection mechanism. The special actions for IPR protection commenced from the key zones, commodities, marketplaces and targets. The key zones mainly included the downtown business areas, hotels and restaurants frequently visited by foreigners, transportation centers and the neighborhood of the foreign consulates in Shanghai. The key commodities were mostly products involving well-known foreign or Chinese trademarks, Olympic symbols or World Expo signs. The key marketplaces consisted mainly of AV products markets, computers & software markets, clothes and small commodities markets and various exhibitions. The Key targets mainly referred to those legal entities or natural persons whose infringement upon trademarks, copyrights or patents involved huge amounts of value, serious social impact and enormous harm. After one year of trial, the IPR protection network has been established and the working arrangement has largely formed. The governments at district or county level are responsible for comprehensive rectification while the Shanghai municipal administrative authorities are in charge of the special rectification actions.

Each competent administrative enforcement authority has respectively prepared

its own detailed plan for the IPR protection actions. Unity has been achieved among such competent authorities by fulfilling their own duties while coordinating with each other. For instance, in view of the rampant exportation of piratical optical discs by post, the Shanghai Customs and the Shanghai Municipal Copyright Bureau established cooperative mechanism for the verification of piratical optical discs to jointly attack the illegal sales by post. In reliance upon the public report, the Shanghai Municipal Public Security Bureau and the administration departments for industry and commerce jointly eliminated a den selling counterfeiting products involving well-known foreign trademarks on Nan Chang Road. During the anti-infringement and anti-piracy actions, a variety of government authorities including the General Office of Shanghai Municipal Intellectual Property Rights Joint Conference, the Shanghai Leadership Office for Rectification and Regulation of the Market Economic Order, the Shanghai Municipal Public Security Bureau, the Shanghai Municipal Administrative Law Enforcement Bureau on City Appearance and the Shanghai Municipal Supervision Agency on Cultural Affairs cooperated with the Shanghai Railways Bureau to block flow of the piratical AV products into Shanghai by railway transportation.

In December 2005, the Shanghai Municipal Government made a report to the State Council Supervision Team on Special Actions for Intellectual Property Rights Protection ("Supervision Team"), who then carried out inspection in Shanghai. The Supervision Team pointed out that "by taking special actions for IPR protection in terms of Shanghai's factual situations, the Shanghai Municipal Government has strictly carried out mandatory actions and featured their own measures, resulting in a rise of the satisfaction degree of enterprises and intermediary agencies and the improvement of IPR protection status. All of these indicate that the Shanghai Municipal Government had firm resolution and effective measures to protect intellectual property rights as well as made significant achievements for IPR protection". The remarks of the Supervision Team as above show that the overall situation of the IPR protection in Shanghai is positive.

II. Strengthen Administrative Law Enforcement to Protect Patents Effectively

In 2005, the Shanghai Intellectual Property Administration ("SIPA") accepted 38 cases alleging patent infringement and concluded 26 cases in total. 19 cases involving patent counterfeiting were accepted and investigated, of which 18 were settled. By taking the approach to combine attack with prevention, SIPA strengthened administrative enforcement while at the meantime cooperated with the Shanghai Municipal Economic Commission and the Shanghai Municipal Food and Drug Administration to implement patent protection programs at selected commercial units on a trial basis. In the same year, 37 model entities for patent protection including Nong Gong Shang Supermarket Co., Ltd. and Shanghai New World Co., Ltd. were chosen from the commercial community in Shanghai. Besides, patent protection programs were initiated among the second batch of model entities. By formulating rules and systems, standardizing patent identifiers, checking the validity of patents and imposing dynamic & long-term control over commodities. All of these

model entities precluded patents counterfeiting goods from entering commercial distribution chains at the very beginning. Once receiving complaints on patent infringements, these entities would take such measures as removing the concerned commodities from shelves or suspend sales, so as to create a good image of respecting others' IPR and maintain the fairness of market economic order.

In May 2005, SIPA issued *Implementing Rules on Strengthening Patent Protection at Exhibitions*, which specifically provided criterion for the management by the sponsors of the exhibitions, settlement of infringement allegations as well as actions by the petitioners and the respondents and thus offered feasible options to cautiously deal with any patent dispute arising from the exhibitions in a timely, fair and just manner. Besides, IPR protection branches have been established at 8 expositions including the 15th East China Export Commodities Fair and the 7th Shanghai International Industrial Exposition to strengthen patent protection for expositions.

In 2005, 32,741 patent applications were filed from Shanghai increasing by 59.9% compared to the correspondent period in 2004. 10,441 applications were filed for invention patent, rising by 55% from 2004. 12,603 patents were granted in 2005, with an increase of 18.6% from 2004.

III. Carry Out Special Rectification to Protect Trademarks Effectively

Trademark infringements and counterfeiting were strongly attacked by Shanghai administrative departments for industry and commerce through enhancement of trademark supervision and protection. Throughout 2005, more than 30,000 person-times of officials were commissioned to inspect over 100,000 business entities of various categories and more than 8,000 commodity marketplaces. 1,227 trademark-related violation cases were handled, of which 1108 cases involved trademark infringements. Fines at the total amount of RMB 10,880,500 were imposed together with confiscation and destroying of 6.51 tons of infringing products. 1,617,600 pieces of trademark logos were confiscated and eliminated.

Emphases were placed as follows by Shanghai administrative departments for industry and commerce in their combats against trademark counterfeiting and infringements: Firstly, strengthened the protection for important trademarks, as for the well-known trademarks in China or in Shanghai, famous foreign trademarks, Olympic or World Expo symbols, etc. Secondly, intensified attacks against trademark infringements involving main products such as food and drugs. Thirdly, enhanced the rectification of the key marketplaces and zones, such as the small commodities markets, professional markets, marketplaces within star-level hotels, special sales places of famed products, major business streets (or centers), shopping malls, supermarkets, leased residential rooms around markets and leased houses & warehouses in the urban fringes. Fourthly, strengthened the supervision over the key sectors, such as the purchase and sales activities by the commercial enterprises in distribution channel as well as the trademark printing activities by the printing enterprises. Focusing on these key aspects, the Municipal Administration for

Industry and Commerce took a variety of special rectification actions.

The administrative departments for industry and commerce prohibited sales of products infringing 40 well-known foreign trademarks such as LV in clothes and small commodities markets throughout Shanghai. Further, the departments took effective measures to consolidate the sales prohibition, leading to new achievements in attacking sales of products counterfeiting well-known foreign trademarks at the major marketplaces. The *Sales Prohibition Circular* was issued in English and copies of the *Notice on Organizing Tourists to Cooperate to Boycott Counterfeiting and Infringing Goods (the Notice)* were also distributed to travel agencies by the departments. Sponsors of marketplaces were urged to fulfill their commitments of “warning for the first time of violation and removal for the second time of violation”. Besides, the mechanism of joint meetings was established by the Administrations for Industry and Commerce of Xuhui, Luwan and Jing’an District to facilitate intelligence communication and cooperation for prohibiting sales of counterfeiting goods, which effectively contained counterfeits sales around the Xiangyang Road Market. In 2005, over 3,000 copies of *Sales Prohibition Circular* in Chinese & English and over 1,000 copies of *Proposal for Prohibiting Counterfeiting Goods Sales* were distributed throughout Shanghai. More than 3,000 copies of the *Notice* were distributed to travel agencies and over 10 sellers of counterfeiting goods in markets were driven away.

In 2005, the Shanghai administrative departments for industry and commerce continued to strengthen the protection for well-known foreign trademarks and settled 652 cases involving foreign trademarks, accounting for 58.8% of all trademark infringement cases. Over 80 well-known foreign trademarks were protected, which included LV, PRADA, SONY, BURBURY and NIKE. For instance, the Baoshan District Administration for Industry and Commerce detected in a warehouse 300,000 pairs of jean trousers alleged of infringement upon “A&F”, a US registered well-known trademark. The Changning District Administration for Industry and Commerce seized 1,137 pieces of auto accessories alleged of infringing the Japanese trademark “Mazda” in a case involving a trade company. Additionally, a variety of significant or vital cases involving trademark infringements were also investigated and handled by the administrative departments for the industry and commerce. 35 trademark infringement or counterfeiting cases with each involving value over RMB 100,000 were investigated and settled in 2005. Further, the administrative department for industry and commerce linked the imposition of administrative penalty closely with the criminal prosecution by referring cases with criminal allegations to the public security organ. In 2005, 11 such cases involving 13 people were referred in 2005. Investigation and conclusion of the vital cases involving trademark infringement or counterfeiting worked as a deterrent against the potential trademark infringers.

Trademark registration applications of Shanghai in 2005 increased steadily and amounted to 29,105, of which 11,977 were approved. At the end of 2005, Shanghai possessed 99,863 valid registered trademarks, of which 318 trademarks were recognized as Shanghai Famous Trademark and 43 were awarded as China Well-known Trademark, ranking top nationwide.

IV. Combine Regulation with Rectification to Protect Copyrights Effectively

According to the instructions by the Shanghai Municipal Government and the State Copyright Administration and based on the factual situations of Shanghai, the Shanghai Copyright Bureau focused on key aspects and important issues of anti-piracy as well as adopted the approach of combining intensified daily supervision with special and joint rectification. Temporary measures together with fundamental rectification and overall enhancement were taken to attack copyright infringements or piracy impairing the public interests.

Regulation of software markets was subject of strong appealing of domestic and foreign copyright owners and also constituted a key aspect of copyright protection. In 2005, the Municipal Copyright Bureau effectively improved the software market order by strengthening control over important sectors, such as replication, retail, preinstall, business use by enterprises, etc. and insisting on combination of education with penalty. Every supervisor sent to optical discs reproduction factories was required to strictly examine the formalities for each reproduction assignment. With the diligent work of the supervisors, no copyright infringement case involving optical discs reproduction factories arose in 2005. As for software retail and preinstall, Shanghai established the contact person system at the major computer stores and software markets, incorporated IPR supervision into daily market management, organized regular circuit inspection by the competent authorities. All these actions curbed the retail of piratical software at the major computer stores and software markets. In 2005, 15 cases involving sales of piratical software or illegal software preinstall were handled, whereby more than 3,680 pieces of illegal optical discs were confiscated and fines of RMB 42, 000 were imposed. With regard to the business use by enterprises, education was taken as the major approach and 54 infringement claims or reports were properly handled, drawing attention from the business community of Shanghai. Meanwhile, the Municipal Copyright Bureau utilized the resources and self-discipline of trade associations. It co-sponsored a variety of programs to give copyright legal education and software assets management training together with trade associations as the China Software Union, US Business Software Alliance and the Shanghai Construction Projects Engineering and Design Association. These programs helped enterprises fully understand the enormous harm to the society and themselves resulting from use of piratical software, encouraging the enterprises to use authentic software and increasing use of authentic software by member enterprises of trade associations on a trial basis.

Much effort was made by the Shanghai Municipal Copyright Bureau to carry out law enforcement activities against piracy and infringements to textbooks and supplements and the highly protected reading materials. Such activities included a comprehensive inspection of publications wholesale markets, printing enterprises, schools and various training organizations and attacks against illegal acts such as reproduction and distribution of piratical teaching books and supplements. In 2005,

more than 1,000 person-times of government officials joined law enforcement inspections to publications markets in Shanghai. These inspections covered 40 schools, 47 bookstores & booths and 386 printing enterprises. 9,070 pieces of piratical textbooks and supplements, maps and other publications as well as over 8,800 pieces of piratical AV articles were confiscated with fines of RMB 77,500 imposed. Illegal gains of RMB 36,500 were confiscated and compensation of RMB 81,000 was awarded through administrative mediation.

Piracy & infringement acts on the Internet are new issues facing the copyright administrative departments. The features of boundlessness, high-tech and invisibility of the Internet contribute to difficulties of law enforcement. Pursuant to the applicable laws and policies, the Municipal Copyright Bureau encouraged the right-owners and the public to provide violation clues and assisted the right-owners in protecting their legitimate rights and interests to the largest permissible extent. The Bureau used such means as giving warnings to or conducting investigations against the alleged infringers as well as furnishing legal advice to those offering violation clues. Copyright infringement cases violating the provisions of information spread on the Internet were settled through prompt coordination and cooperation with relevant administrative departments, by measures such as shutdown or suspension of the illegal websites to ensure that each case under investigation would be completely conducted. The Municipal Copyright Bureau were recognized and praised by the right-owners for insisting on providing feedback upon each reported case,

In 2005, the Municipal Copyright Bureau accepted 700 applications for registration of copyright related contracts. Among which, 546 were copyright trade contracts for 595 kinds of foreign publications, 12 were publishing contracts for foreign electronic publications, 56 were foreign computer software license contracts and 86 were reproduction contracts for copying foreign computer software & AV products. 1,066 voluntary registrations of works were accepted, involving 156 pieces of literature works, 31 pieces of musical works, 749 pieces of artworks, 42 pieces of photography works, 3 pieces of works created by filming or in a similar manner and 85 pieces of graphic works. The number of registration increased by 31.8% compared to 2004.

V. Strike Illegal Business Activities to Rectify the AV Products Markets

The piracy of AV products continues despite all efforts of controlling is a worldwide difficult problem. The Shanghai Municipal Government has consistently attached great importance to the IPR protection for AV products. It treated the control over piratical AV products and the attack against the peddlers selling piratical products as one of the fundamental tasks of IPR protection. Relevant Shanghai municipal authorities such as the Shanghai Municipal Administration on Culture, Radio, Film & TV, the Shanghai Municipal Administrative Law Enforcement Bureau on City Appearance, the Shanghai Municipal Supervision Agency on Cultural Affairs, and the Shanghai Municipal Public Security Bureau cooperated with each other to establish regular meeting regime and joint enforcement mechanism. They have steadily strengthened the daily supervision, consolidating the rectification

achievements by taking comprehensive measures.

In 2005, the law enforcement authorities on cultural affairs at both the municipal and the district levels inspected 26,120 units selling AV products, 8,100 shops selling electronic publications and 12,681 stores selling books and periodicals. 5,959 cases involving illegal business activities were investigated and handled. More than 171 underground dens with one-time wholesale volume over 10,000 illegal optical discs or over 5,000 illegal books/periodicals were eliminated. 8,342,765 pieces of illegal AV/electronic publications and 681,588 illegal books/periodicals were confiscated in total. In the meantime, the municipal law enforcement authorities on cultural affairs insisted on striking underground violation activities, such as storing, transportation and wholesale of piratical AV productions. The Shanghai Municipal Administration on Culture, Radio, Film & TV and the Shanghai Municipal Supervision Agency on Cultural Affairs actively carried out publicity activities regarding the IPR protection for AV products. They organized the Shanghai Action Under the Nationwide Campaign of Destroying Illegal AV Products. 7,210,000 pieces of illegal AV articles were destroyed in 2005 with a rise of almost 44% compared with 2004. Since 2005, the Municipal Head Office for the Cultural Market Administration started to use reward offering as one of the incentives and means to facilitate anti-piracy efforts.

By taking the advantage of their extensive network, the local administrative authorities on city appearance included IPR protection as part of daily law enforcement work at the municipal, district and sub-district levels. Investigations and punishments against sales of piratical optical discs, software and publications by unlicensed roadside peddlers were strengthened. 16,955 such cases were handled in 2005. Among which, 15,573 received warning & rectification and 1,382 were punished by administrative penalties. Fines of RMB 136,550 were imposed and 225,214 pieces of piratical publications, 62,017 pieces of piratical AV articles as well as 21,397 pieces of piratical software discs were confiscated.

All the public security departments in Shanghai provided assistance to the relevant government authorities in their inspection raids and rectification actions to investigate and dispose IPR violations such as sales of piratical optical discs and publications. In the year 2005, more than 7,400 cases involving illegal publications were handled and over 8,857 law-breakers were arrested, of which, 59 people were subject to modification through labor and more than 8,600 people received public security punishments. Over 1,200,000 pieces of illegal publications were confiscated. In the middle of April 2005, the Shanghai Western Railway Station Branch of the Shanghai Railway Public Security Section seized 225,000 pieces of piratical discs in a freight train from Guangzhou to Shanghai. By strengthening road interception investigations throughout the whole municipality, the transportation police departments attached 410,000 illegal optical discs, books or periodicals in 2005.

VI. Firmly Block Infringing Goods to Strengthen the Customs IPR Protection

Adhering to the principles of the *WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs)* and pursuant to the *PRC Customs Law*, the *PRC*

Regulations on the Customs Protection for Intellectual Property Rights and other related laws and regulations, the Shanghai Customs firmly attacked the flow of the counterfeiting and piratical products through the export and import channels while ensuring the customs clearance efficiency by reasonably allocating law enforcement resources and strengthening investigation and control. Up to 2005, 961 IPR infringements cases with the total value of RMB 154,000,000 which involving many well-known foreign trademarks such as “PHILIPS” & “LV” and famous domestic trademarks as “Butterfly”, “White Elephant” & “Diamond” have been investigated and handled. The Shanghai Customs has made much effort to maintain a fair competitive export and import order of the Shanghai port, to improve the Shanghai investment environment as well as increase Shanghai’s competitiveness in the world.

In combination with the requirements of the national special actions for the IPR protection and by comprehensive and thorough IPR customs protection, the Shanghai Customs strongly attacked the counterfeiting and infringement activities involved in the course of export or import. 150 infringement cases were investigated and concluded with the total value of more than RMB 45,000,000. Both the quantities and the value of the goods seized in such cases grew dramatically. The total value increased by 142.7% compared to 2004. The percentage representing by the mechanical, electronic and other commodities with much high-tech element consistently rose among the goods seized. Cases involving such products as TV sets, mobiles, tractors, scanners, drills and transistors constituted nearly half of all the cases. The channels utilized to transfer such goods included not only conventional transportation means as by air, sea, land, but also by post, air-flight courier services as well as carriage by passengers.

By implementing risk control concept and methods throughout the course of IPR protection and by reasonable mobilization and allocation of management resources, the Shanghai Customs gradually established risk control system of IPR protection covering information collection, risk analysis, risk disposal and performance appraisal. It could achieve accurate identification, swift response, stringent supervision and effective inspection. Further, high-tech means such as H2000 clearance system, H986 containers inspection equipment were fully utilized to effectuate goods flow tracing and simultaneous supervision to maximize the effects of the limited management resources. In 2005, 87% of all the infringement cases to Shanghai Customs were detected by its own officials. As a result, infringement acts including counterfeiting were effectively investigated and disposed without impairing the clearance efficiency. Shanghai port successfully maintained the fair competitive export and import order as well as protecting the legitimate rights and interests of the IPR owners.

With focus upon strengthening connection with the IPR owners and relevant persons, the Shanghai Customs actively organized legal education and publicity programs to raise the IPR protection awareness of the public. By establishing IPR consultation center, sponsoring law enforcement training programs, holding meetings & talks, etc., the Shanghai Customs conducted face to face communications with the IPR owners. The Shanghai Customs extensively publicized customs IPR protection

laws, regulation & policies and achieved a good social effect. For the purpose of demonstrating the accomplishments of IPR protection, the Shanghai Customs established an exhibition hall to display typical infringing goods and articles seized in export and import, which received praises from visitors home and abroad.

VII. Strike Criminal Activities to Enhance IPR Protection

Commencing from the special action for IPR protection, Shanghai municipal public security organs took effective measures to attack various IPR-related criminal activities with remarkable achievements. In 2005, 154 criminal cases involving IPR infringements were investigated, 247 suspects were arrested. 699 booths selling counterfeiting goods were eliminated. Over 1,600,000 pieces of illegal publications with the total value of RMB 180,000,000 were confiscated. All these actions effectively maintained the market order of Shanghai economy. In the “Hawk Mission” for IPR protection arranged by the PRC Ministry of Public Security, Shanghai’s public security organs at all levels established leadership teams and working groups in charge of special actions. Adhering to the working approach of “Investigate Large Cases, Eliminate Illegal Dens, Strike Criminal Groups and Inspect Network”, Shanghai public security organs took measures catered to the targeted zones to achieve goals of the “Hawk Mission”. By listing the 15 cases entrusted and supervised by the PRC Public Security Ministry as their priorities, the investigation branches of Shanghai public security organs fully implemented various measures and successfully investigated a number of large and urgent cases. In January 2005, the General Investigation Team of the Shanghai Municipal Public Security Bureau successfully unearthed a case involving illegal utilization of the tobacco sales network to sell counterfeiting cigarettes. In this case, over 10 suspects including Zhang Tingqun were arrested with shutting of 99 chain stores selling counterfeiting cigarettes and confiscation of over 15,000 packs of counterfeiting Zhonghua and Panda Brand cigarettes. In February 2005, the Investigation Team of the Hongkou District Public Security Bureau uncovered a case involving illegal manufacturing and sales of counterfeiting auto accessories. A criminal group engaged in manufacturing and selling a variety of counterfeiting well-known brand auto accessories according to the clients’ requirements were eliminated. Four members including Zhao Weixin were arrested and the counterfeiting auto accessories to famous brand (such as Toyota) at the total value over RMB 10,000,000 were confiscated. In July of the same year, the General Investigation Team of the Shanghai Municipal Public Security Bureau successfully uncovered a case involving infringements upon trade secrets. The case is about stealing the computer software owned by some enterprise by its former employer for business use, and 2 suspects including Zeng Ming were arrested. All the 15 cases entrusted and supervised by the PRC Ministry of Public Security were all concluded.

The public security organs at all levels equally strengthened their communications and exchanges with the relevant IPR administrative departments. They established and improved cooperative mechanism on information exchange and briefing of the IPR cases, accelerated the referral of violation clues and the process of verification, which effectively facilitated the connection between the administrative and

the judicial law enforcement. For instance, the General Team for Public Order-keeping of the Shanghai Municipal Public Security Bureau, together with the Shanghai Municipal Administration on Press and Publication and other relevant authorities jointly took special actions against the printing and reproduction industry. A special team organized by the Cultural Protection Sub-bureau of the Shanghai Municipal Public Security Bureau and the Municipal Copyright Bureau took several months to successfully uncover a case involving printing piratical publications. Criminal suspects including Shen Jiuchun alleged of printing and selling piratical publications were arrested respectively in Beijing and Nanyang, Hennan Province, with confiscation of sample books, illustrative pictures on bond-paper, the printing template films, the process sheets, etc. The Shanghai Municipal Public Security Bureau further strengthened its connections with the judicial authorities including the procuratorates and courts to resolve the difficulties arising from the investigation and handling of cases. They held discussions and studies of the qualifications & legal effects of evidences and the actual impact of strikes against violations, which greatly improved the quality and efficiency of their daily work.

VIII. Steadily Improve Trial Quality to Protect the Legitimate Rights and Interests of the Parties Involved

In 2005, an unprecedented 1,092 IPR-related civil cases (including the initial trial and the second trial cases) were accepted by the Shanghai court system and 1,055 cases of which were completed, with an increase of 28.3% and 21.3% from 2004 respectively in terms of accepted cases and completed cases with balance. Besides, 59 IPR-related criminal cases were accepted for their first trial and 60 cases of which were concluded.

The IPR-related civil cases accepted by the Shanghai court system had the following features. Firstly, there were many new types of cases. For instance, the Trademark's Reversal Imitation case brought by the Fujix Company Ltd. against Jiaojiang Special Wires Producing Plant in Taizhou, Zhejiang Province was the first case of the kind accepted by the Shanghai court system since the adoption of the amendments to the PRC Trademark Law including the Trademark's Reversal Imitation as trademark infringement. After the amendment to the PRC Trademark Law, the courts have the authority to determine whether a brand in dispute was well-known trademark. Therefore the requests filed by holders of some famed brands, such as Rinnai, Nippon and Wanke for recognition and protection as China Well-known Trademark were also brand-new issues facing the Shanghai court system. Additionally, there were new categories of cases involving the interpretation of the pattern design rights enjoyed by the publisher after the new amendment to the PRC Copyright Law.

Secondly, there was an increase of IPR disputes in all cases. The conflicts were mainly those between trademark rights and trade name rights, plus those among copyrights, trademark rights and domain names. For example, the well-known real estate trademark "Wanke" and the trade name "Wanke" gave rise to conflicts, which was also found in the trademark conflict of "Tanshi" and "Guanfu" used by "Tanshi

Guanfu” Cuisine Restaurant.

Thirdly, a number of relatively influential cases involving well-known enterprises were accepted. Such cases included the “Spring Travel” trademark rights case, the dispute over the webpage copyrights between “Mecoxlane” and “Bertlesmann”, and the dispute over the well-known commodity packaging design between “Xu Fu Ji” and “Tai Shang”. All these reflected that some famed enterprises had come to realize the importance of IPR as both defensive and offensive weapons in the market competition.

Fourthly, there was a growth of foreign-related cases. In 2005, the Shanghai No. One Intermediary People’s Court accepted 34 cases related to a party from a foreign country or Taiwan/Hong Kong. Many cases attracted media attention due to their comparatively significant social influence caused by the intangible assets disputes regarding the famous international brands or the emerging industries.

Fifth, there was a rapid increase of the disputes over the rights to distribute AV products. With a growing social awareness, cases accepted by the courts that involved disputes over the rights to distribute AV products rose accordingly. The Shanghai No. One Intermediary People’s Court accepted 127 cases of such kind, accounting for 33.42% of all the IPR-related cases accepted for the first trial.

IX. Actively Make Publicity to Promote Cooperation and Communication

Each year, the Shanghai Municipal Government holds Information Briefing to foreign Consulates on IPR protection status in Shanghai, where the *White Paper on the Status of the Intellectual Property Rights Protection in Shanghai* are distributed to introduce the annual situation of IPR protection by the IPR administrative authorities and judicial departments of Shanghai. The attendants of the 2005 Information Briefing were expanded to the representatives from foreign invested enterprises and overseas media journalists other than officials from foreign consulates, which achieved a fairly satisfactory effect.

The Shanghai Intellectual Property Administration (SIPA) took the approach of “Initiatively Going to the Outside and Inviting Friends to visit Shanghai” to facilitate the cooperation and communication with its counterparts home and broad. On September 23 of 2005, SIPA hosted a Roundtable Meeting on IPR Cooperation and Communication in the Yangtze River Delta, where the *Cooperative Agreement on the Patent Administrative Law Enforcement by the Intellectual Property Offices in Yangtze River Delta* was signed and the Yangtze River Delta Network for Patents Trade and Collaboration was initiated. In addition, SIPA also sponsored the First Forum of Sino-Japan Enterprise IPR Cooperation with the theme of “Enterprise Growth and IPR Strategies”, the 2005 Shanghai International IPR Forum with “Protect Intellectual Property Rights and Develop Creative Industries” as its theme. It also co-sponsored with the American Chamber of Commerce in Shanghai the High-level Seminar on Enterprise Patents Management entitled “The Way to Increase Competitiveness: Patent Application and Litigation Strategies”. In November 2005 particularly, SIPA

coordinated the 2005 Ambassador's IPR Roundtable Meeting, the success of which won good reputation for the Shanghai Municipal Government. In his letter to the Mayor of Shanghai Mr. Han Zheng, the US ambassador to China Mr. Randt wrote that "the reasons for selecting Shanghai as the venue of this meeting are because of its gathering of most US industrial enterprises, its central location in the most promising Yangtze River Delta and its reputation as a leader in IPR protection in China".

The administrative departments for industry and commerce in Shanghai utilized their reception of foreign visitors and participation in the foreign-related affairs to make publicity. The leaders of the Shanghai Municipal Administration for Industry and Commerce introduced the status of trademark protection in Shanghai during their meetings with delegates of foreign governmental institutions, companies, universities and trade associations such as EU, UK Richemont Group Company, US Pennsylvania University and the International Trademark Association. They also delivered speeches on international seminars and activities sponsored by the International Trademark Association and the International Licensing Industry Merchandiser's Association. All these enabled the holders of foreign trademarks, particularly foreign governments and relevant IPR organizations to further understand and support the work of the administrative department for industry and commerce.

The Municipal Copyright Bureau organized the Shanghai Copyright Trade Fair, where nearly 200 copyright transaction intentions were reached. The Copyright Trade Symposium of the Six Provinces and Shanghai Municipality in East China as well as the Forum on the Current Status and Future Prospect of the UK and US Publications Copyright Trade were also successfully held. In 2005, the officials of Municipal Copyright Bureau, alone or jointly with other departments, hosted many delegations from foreign media, trade associations or enterprises. They also visited foreign organizations and foreign invested enterprises in Shanghai to introduce the high profile taken by the Shanghai Municipal Government in IPR protection, the progress achieved in copyright protection as well as the protection environment to consolidate the Shanghai's good international image in IPR protection.

The Shanghai Customs cooperated with the delegation of the EU customs IPR protection experts to arrange the "Enforcement Day of the Customs IPR Protection", on which customs staff were conducted to the application of the risks control measures. During their visit to Shanghai Customs, the IPR protection experts from UK Customs talked with the Shanghai Customs officials about the implementation of the Information Sharing Mechanism between the PRC General Administration of Customs and the British Customs to reach a preliminary agreement upon such issues as the information exchange, the technological training on risks control after complete discussions. Early in 2005, the Shanghai Customs ranked the first in an overall survey on IPR protection performance for all 41 customs under the PRC General Administration of Customs. The survey was conducted by the PRC General Administration of Customs among the members of the Quality Brands Protection Committee of the China Association of Enterprises with Foreign Investment.

Despite of much progress achieved by Shanghai on IPR protection in 2005, there were still some weak points, such as the obstruction of report & complaint channels, the weakness of law enforcement power at comparatively lower governmental levels, the imbalance of IPR protection among different districts or counties. IPR protection is a tough and long-term task. It is required for rectification and regulation of the market economic order to stimulate the technological innovation and the increase of international competitiveness, and to the full implementation of the scientific development concept to achieve sustainable development. In 2006, the Shanghai Municipal Government will pursuant to the requirements of the National Leadership Office for Rectification and Regulation of Market Economic Order, promote the establishment and improvement of “One Center”(the Municipal IPR Report & Complaint Center), “Two Mechanism” (the Trans-regional Cooperative Mechanism of IPR Administrative Law Enforcement and the IPR Protection Appraisal Mechanism) and “Three Systems” (the Regular Report System on IPR Protection, the Briefing System on the Status of the IPR Protection and the Responsibility System on Entrusted Cases). The local government will continue to intensify attacks against IPR infringements to create a more favorable investment environment in Shanghai.