

## Joint Conclusions

### 6<sup>th</sup> EU-CHINA IP DIALOGUE MEETING, 8-9 April 2010

The sixth session of the EU-China IP Dialogue took place on 8 and 9 April 2010 in Beijing. The session was co-chaired by Director General Li Ling from Department of Treaty and Law in MOFCOM and Director Ewa Synowiec from DG TRADE in the European Commission.

Both sides discussed a number of IPR issues, comprising: trademarks, including the new draft Trademark Law and measures to deal with bad faith trademark applications; design protection and IPR protection at trade fairs; copyright, including broadcasting of copyrighted works, plant manufacturing of pirated optical discs and online music content examination; geographical indications; patents, including the revised Patent Law and related regulations, patents in relation to low carbon technology as well as licensing agreements in the ICT sector; innovation and standardization, including data protection for pharmaceuticals and agrochemicals, IT security certification, and IPR and standardization; plant variety protection; and IPR-related aspects concerning indigenous innovation products. In the context of IPR enforcement, both sides also discussed counterfeiting in retail and wholesale markets and on the internet; online piracy; civil and administrative measures and procedures; customs action; criminal prosecution and practice of IPR infringement lawsuits. Technical co-operation under IPR2 project and IPR issues to be raised at the next forthcoming high level bilateral meeting were also addressed.

Both sides noted the following points:

#### Trademarks

1. Chinese side introduced the latest development of the revision of its Trademark Law and expressed its appreciation to the comments presented by the EU side to SAIC. Both sides discussed the revised draft of the Chinese Trademark Law, and the EU side expressed its concerns to some issues in relation to the revision.
2. Both sides agreed to continue exchanging views on the revision of the Trademark Law and protection of well-known trademarks, including under IPR2.
3. EU side confirmed the preparation of a publication on EU trademark examination system for further consideration by Chinese side.

4. In order to better deal with bad faith trademark applications, both sides agreed to further address this issue through joint activities under IPR2 and/or the umbrella of the Memorandum of Understanding concluded between SAIC and OHIM.

#### **Designs and trade fairs**

5. Both sides agreed to improve the level of IP protection and enforcement at trade fairs. Chinese side expressed willingness to know on which trade fairs EU companies perceive to encounter problems.
6. Chinese side supported better promotion and enhancement of the visibility of Complaint Desks at trade fairs as well as a specific project under IPR2 on how to publicize the existence of Complaint Desks at trade fairs.

#### **Copyright and related rights**

7. Chinese side introduced the state of play on the future revision of the Copyright Law. EU side raised the possible introduction of broadcasting and public performance rights for producers of sound recordings and performers. Chinese side expressed readiness to consider EU comments and suggestions in the framework of this revision process.
8. Chinese side agreed to co-operate on combating illegal manufacturing optical discs. EU side referred to the list of 10 infringing plants previously submitted and proposed to provide an update to the Chinese authorities. Chinese side agreed to investigate according to the information presented by the EU side, and provide feedback to the EU.
9. Chinese side clarified the question of retroactivity of the Interim Measures for Paying Remuneration for Broadcasting Sound Recordings by Radio Stations and Television Stations.
10. Chinese side introduced the purpose, significance and measures of the implementation of the examination on online music content and agreed to follow-up on the concerns of EU music industry representatives on the Circular on online music content examination .

#### **Geographical indications**

11. Both sides discussed the establishment of a GI platform to enable European and Chinese GI government organs and producers to get information and report on their problems in China and the EU. Chinese side expressed readiness to have an internal discussion on this topic among relevant government agencies and then inform the EU side of its view.

### **Patents**

12. Both sides exchanged views on the revised Patent Law and related regulations, and envisaged to continue the exchanges on this issue.
13. Both sides agreed to further discuss the important contribution of IPR to the promotion of low carbon technology.
14. Chinese side confirmed ongoing consultation on the revised draft regulations on IPR abuse in the context of the Anti-Monopoly Law. Both sides agreed to continue talks on technical level about this issue.
15. Chinese side reiterated the government does not get involved or interfere in negotiations between or among enterprises on IPR licensing agreements. Chinese government encourages Chinese enterprises to participate in the discussion and practice of the models of international patent licensing, and address relevant issues through negotiation according to the law and market situation. Both sides agreed to follow up with bilateral meetings on how to practically address concerns.

### **Innovation and standardization**

16. Chinese side confirmed its readiness to communicate and have dialogues with the EU on the issues of the registration of drugs and protection of undisclosed information.
17. Chinese side clarified that appropriate arrangements were made to protect confidentiality with regard to IT Security Certification. Chinese side expressed readiness to enter into dialogue with the EU on this issue.
18. Chinese side confirmed that EU comments would be taken into account in the revision of the draft rules on IPR and standards.
19. EU side raised concerns over possible know-how violations in certification and conformity assessment procedures. Chinese side requested to receive concrete cases to discuss further.
20. EU side raised the issue of indigenous innovation procurement in China. Chinese side informed that the Ministry of Science and Technology (MOST) had recently made some clarifications on the circular, and it was going to further improve it in order to clarify the misunderstanding. The revised scheme will be made public soon.

### **Plant variety protection**

21. EU sides welcomed improvements in Chinese plant variety protection. Chinese side confirmed that further research was being made on the possible accession by China to the 1991 Act of the UPOV Convention.

### **IPR enforcement**

22. EU side welcomed Chinese promotion work on IP Pilot Model Cities and newly established IP Assistance and Enforcement Centres. EU side is welcome to visit them.
23. EU side welcomed progress and called for intensification of efforts by Chinese authorities to improve IPR enforcement in retail and wholesale markets, in particular in the Silk Market, and continuous support by the courts and administrative bodies to the co-operative approach of the right holders.
24. Both sides agreed to further co-operate on the issue of counterfeit products sold on the internet with the involvement of all the relevant agencies. Chinese side expressed interest in receiving further information on EU practice in this matter. EU side welcomed the first Tort Law in China that can help improve IPR protection on the internet.
25. Both sides agreed to strengthen their co-operation on online piracy. EU side requested action by China against sites offering illegal music and sport events.
26. Chinese side took note of the EU's concerns on legalisation and notarisation requirements, and agreed to have further communication with the EU and study EU's comments.
27. Both sides welcomed the implementation of Action Plan Concerning EU-China Customs Co-operation on IPR in 2009 and agreed to support further development of actions such as the customs network at ports and airports in the EU and China.
28. Both sides discussed specific issues in relation to criminal prosecution, such as calculation methods for the criminal thresholds and case transfers, and agreed to further discuss these issues.
29. EU side presented specific infringement cases; MOFCOM accepted to refer them to the relevant bodies upon provision by the EU of further details in writing.

**Technical co-operation**

30. Both sides confirmed the importance they attach to the IPR2 technical co-operation programme as a key tool of their bilateral co-operation in the area of IPR.

Both sides agreed that the next session of the EU-China IP Dialogue will take place in Brussels in March/April 2011.