

Program for Special Campaign on Combating IPR Infringement and Manufacture and Sales of Counterfeiting and Shoddy Commodities

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With the much concern of the CPC Central Committee and State Council and joint efforts of all local governments and departments, China has made much headway in IP protection in recent years. However, due to various kinds of factors, the actions of infringing IP and manufacturing and selling counterfeiting and shoddy commodities still occur now and then, particularly in some localities and industries, which not only disorders normal market economy and jeopardizes enterprises' competitiveness and innovation enthusiasm, but harm China's international image. To intensify IP protection and safeguard fair and orderly market environment, with the approval of the State Council, China decided to launch special campaign on fighting against infringing IP and manufacturing and selling counterfeiting and shoddy commodities, which will last from October 2010 to March 2011. The concrete plan goes as follows:

1. Goals and focal points

Launch special campaigns on curbing IP infringement and the manufacture and sales of counterfeiting and shoddy commodities, sternly investigate a batch of serious eye-catching cases related to IP infringement at home and abroad and expose a group of enterprises violating laws and regulations so as to form high-handed posture to combat IP infringement actions; enhance enterprises' law-abiding awareness, raise consumers' ability in identifying fake goods, form a sound social atmosphere of consciously rejecting counterfeiting and shoddy commodities and valuing IP protection and positively create good environment for IP protection; strengthen law enforcement collaboration, improve law enforcement efficiency, intensify law enforcement, fully exert the role of administration and judicature protection, and wholly lift the capability of local governments and departments in IP protection and reinforcement of market regulations.

Developing special actions should base on the principle planning as a whole, giving prominence to pivots, curbing illegal actions while preventing them from happening and pursuing for practical results. Curb large-scaled actions related to IP infringement and vigorously purify market environment, targeting at protecting copyrights, trademarks, patents and plant new varieties, specially standardizing places where products are collectively manufactured, goods distribution centers and places where cases frequently happen related to IP infringement and the manufacture and sales of counterfeiting and shoddy commodities, rectifying news and publishing industry, culture and recreation industry, hi-tech industry and agriculture, particularly inspecting such products as books, AV products, software, main export commodities, auto fittings, cell phones, drugs and seeds.

2. Task and division

(1) Increasing source control of production

Authorities such as news and publication (copyright), public security, industry and commerce and quality inspection should closely cooperate with each other and reinforce supervision over enterprises printing and duplicating publications, presswork, CDs, computer software, package and trademark signs and labels, carefully investigate the doings illegally printing, copying, surprinting and selling printed output such as marks and labels, revoke the printing business license in serious cases, and ban printing and duplicating companies with no licenses. Industry and information, news and publication (copyright) and commerce departments should reinforce supervision over the newly produced computer pre-installed genuine operating system software; Quality inspection departments and industry and information sections should intensify quality supervision, strictly censor manufacturers' qualifications, stick to ban the production of businesses with no licenses, investigate and deal with the activities passing a fake product off as a genuine one, falsely using the names and exclusive signs of geographical indication (GI) products, fabricating or falsely using such quality symbols as companies' names, address and authentication marks and imitating signs. Agricultural departments should curb infringement and counterfeit dealings in seed production, in major grain producing areas, enhance the identification of main species including corn and rice, and particularly curb doings illegally producing and selling authorized species. These administrations also need investigate behaviors that misapply, falsely use and forge the registry certificates, the names of products and special logos of agricultural product geographical indications.

(2) Enhancing market supervision and administration

Industry and commerce departments should reinforce market inspection, and severely combat the action involving the imitation of the special names, package and upholstering of famous commodities, uncharitably inspect illegal behaviors infringing the exclusive rights of registered trademarks and GI trademarks, prevent malicious trademark registration, intensify market supervision, nail down the responsibilities of market developers, operators and administrators, and redouble supervision and inspection. News and publication (copyright) departments should join hands with related departments to deeply develop special campaigns on copyright law enforcement, enhance inspection of book market, software market and AV products, and firmly crack down upon infringement and piracy. Intellectual property departments should increase crackdown upon repeated, collective and malicious infringement and counterfeiting patents. Commerce departments should strengthen the administration and standardization of trade and business enterprises, require enterprises to enhance their commodity dispatching and prevent infringing commodities from entering into circulation section. Price departments should enhance price supervision, specify operators' price behaviors and severely investigate illegal actions like price gouging. Food and drug supervision departments should intensify crackdown upon actions related to manufacturing and selling counterfeiting drugs and disordering medicine production. Industry and information departments should provide technical support for special campaigns and positively cooperate with related law enforcement entities to conduct market inspection.

(3) Intensifying IP protection in import and export and on the Internet

Customs should intensify supervision over infringing products in the import and export ports according to the types and regional distribution of IP infringement cases. Quality inspection departments should energetically fight against imported and exported counterfeiting and shoddy commodities. Commercial and IP departments should intensify foreign-related IP protection, severely punish enterprises involving IP infringement in their import and export, strictly enforce exhibition IP protection regulations and well do IP protection work at important fairs. Industry and commerce departments and news and publication (copyright) departments should join hands with departments concerned to enhance online IP protection, seriously fight against online infringement and piracy, and especially combat infringement and piracy of movie and television plays. Related authorities also need enhance the supervision over online shopping, teleshopping and TV shopping, stressfully knock down the sales of infringing and counterfeiting commodities via Internet, communications and TV network. Radio and television departments should reinforce supervision over audio-visual program service websites.

(4) Intensifying criminal and judicial crackdown

Public security departments should promptly investigate crimes relating to IP infringement and the manufacture and sales of counterfeiting and shoddy commodities, particularly deal with serious and bad influential IP infringement cases, reinforce efficient joint of administrative and judicial enforcement, avoid that authorities do not deliver those cases and only fine the offenders instead of punishing them, and determinedly look into the criminal liabilities of IP infringers. Departments including intellectual property, industry and commerce, news and publication (copyright), commerce, taxation, quality inspection and agriculture and forestry should timely transfer the cases that meet the standards of criminal prosecution filing, consult and request public security departments to get involved in the investigation in advance of cases in which the offenders may escape or destroy evidence. Public security departments should investigate without delay the suspected criminal cases transferred by administrative enforcement authorities. Supervisory departments should intensify supervision over suspected criminal cases transferred, too. Judicial administrations should guide lawyers to well do agency work in cases related to IP infringement and the manufacture and sales of counterfeiting and shoddy commodities. The departments concerned should actively support procuratorial organs for case examination and lawsuit, litigation authority and supervision over cases placed on file, and work with courts on cases involving IP infringement and the manufacture and sales of counterfeiting and shoddy commodities.

(5) Urging governmental bodies nationwide to use genuine software

Governmental bodies at all levels shall examine whether the computer software being used are genuine and make rectification correspondingly. Administrations on press and publication (copyright) and governmental affairs in particular, together with other relevant authorities, will carry out joint inspections to further impel the use of genuine software. Financial departments shall provide necessary funding for appropriate purchase of genuine software.

(6) Enhancing promulgation on IP protection

Relevant authorities shall implement the national IP strategy in depth, secure the effect of IP protection measures and report in time the progress and achievements of the special campaigns on IP protection. News reports shall focus on infringement problems that arouse strong complaints and public concern, disclose typical cases and deter crimes. Relevant authorities shall organize different forms of activities to educate the public in IP knowledge and consciousness, comprehensively promulgating the significant achievements in China's IP sector and reporting typical examples that respect intellectual property, value innovation and obey the laws. Efforts have to be made to create a healthy atmosphere where IP could be carefully protected and IP infringement, including counterfeiting and piracy, could be consciously resisted. Enterprises shall be guided to fulfill their social obligations and the development of a credit system shall be expedited. Meanwhile, authorities should also further analyze public opinions, keep close watch on information flow online, take the initiative in releasing news, interview and report, explain public doubts and timely respond to public concern, making the guidance of public opinion well focused and of substantive effect.

3. Requirements of the special campaign

(1) Strengthening the organization and leadership and clarifying responsibilities

To guarantee the implementation effect of actions on IPR protection, China's State Council decided to set up a leading group for a special campaign nationwide to crack down upon IP infringement (hereinafter referred to as the Leading Group of the National Campaign). The office of the Leading Group is based in China's Ministry of Commerce. Local governments – in provinces, autonomous regions and municipalities – shall all set up respective leading groups, with people in charge in corresponding authorities taking the leading role in the supervision. Local governments at all levels shall formulate proposals on how to implement the special campaign, establish a sound supervision & appraisal system and avoid regional protectionism. Commercial and IP departments shall cooperate with relevant authorities to establish an effective mechanism for coordination in regulating the market economy orders and IP protection actions.

(2) Strengthening cooperation and constituting resultant supervision

Relevant authorities shall work together, constituting a resultant force, combine the special campaign with their daily tasks on IP protection and secure the effect of the action. The Leading Group of the National Campaign, together with relevant authorities, shall set up a communication mechanism for legal enforcement and especially for handling serious cases, contributing to timely resolution of prominent problems.

(3) Strengthening guidance and supervision and paying close attention to implementation

Departments in different regions shall firmly fulfill the tasks required in the special campaign, securing the substantive effect of legal enforcement. Relevant authorities shall set up coordinated inspection groups to supervise the progress made in different regions. Local governments shall timely report the progress achieved. The Leading Group of the National Campaign and relevant

authorities need to collect statistical data and take care of information exchange, strategically guiding the implementation nationwide.

(4) Keeping the denouncing channel unimpeded and reinforcing public oversight

Relevant departments shall make full use of the present denouncing mechanisms and impel public oversight. Legal aid centers on intellectual property nationwide should actively participate in the special campaign and address the IP-related complaints received via “12330” hotline (a specialized public benefit hotline that provides IP-related legal aid and receives complaints) with quick response and serious attitude. Hotlines including “12312” (receiving complaints on commercial affairs), “12315” (dealing with consumer complaints), “12390” (reporting IP infringement and piracy) and “12365(receiving complaints on product quality)” shall be fully functioned so as to provide convenient access to information, complaints and clues of crimes.

4. Schedule of the special campaign

The special campaign will be carried out in three steps:

(1) Mobilization period (October 2010): Relevant departments in different regions shall formulate detailed plans to guide implementation. Proposals drafted by provincial, municipal and the central administrations shall be submitted to the Leading Group Office of the National Campaign before November 10.

(2) Implementation period (November 2010 to February 2011): Relevant authorities shall take actions in accordance with the Plan and the respective local implementation proposals. The Leading Group Office of the National Campaign will cooperate with other relevant authorities to supervise the implementation progress in different regions. Provincial administration will conduct spot check in local areas.

(3) Acceptance inspection period (March 2011): Relevant departments in different regions shall summarize the experience and lessons gained in the special campaign. The Leading Group of the National Campaign will recognize the outstanding performance of the regional departments by granting honorable titles and rewards and later report the process and achievements of the special campaign to China’s State Council.