

Notice of the General Office of the State Council on Circulating the 2013 Major Tasks for the Nationwide Crackdown on IPR Infringements and the Manufacture and Distribution of Counterfeit and Shoddy Commodities
Guo Ban Fa (2013) No. 36

The people's governments of all provinces, autonomous regions and municipalities directly under the Central Government, all ministries and commissions of the State Council and all institutions directly under the State Council:

The "2013 Major Tasks for the Nationwide Crackdown on IPR Infringements and the Manufacture and Distribution of Counterfeit and Shoddy Commodities", as approved by the State Council, are hereby issued to you for conscientious compliance and implementation.

General Office of the State Council
May 17, 2013

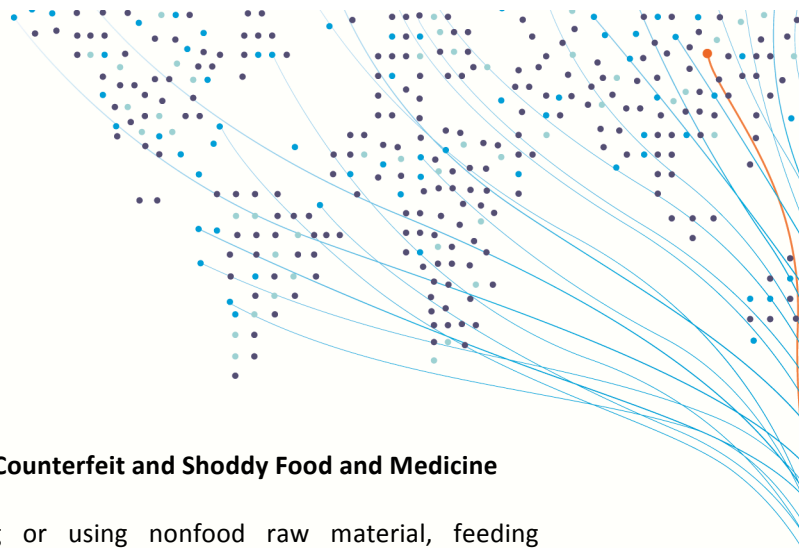
2013 Major Tasks for the Nationwide Crackdown on IPR Infringements and the Manufacture and Distribution of Counterfeit and Shoddy Commodities

The major tasks for the nationwide crackdown on IPR infringements and the manufacture and distribution of Counterfeit and Shoddy Commodities in 2013 lie in the continuous launching of special campaigns and exploration of ultimate solutions by focusing on solving the outstanding issues infringing people's vital interests and harming innovation-motivated development so as to support scientific development and social harmonization.

I. Crackdown on Illegal Action of Manufacturing and Distributing Counterfeit and Shoddy Commodities

(1) Launching Special Campaign against Counterfeit and Shoddy Agricultural Materials

Special campaigns such as promoting genuine agricultural materials in rural region, the SAIC's Agricultural Material Special Campaign (literal translation) and the anti-counterfeiting campaign against counterfeit and shoddy agricultural materials in rural region shall be continued. Special campaigns pertaining to the key agricultural materials like seed, nursery stock, pesticide, fertilizer, veterinary medicine, fodder and fodder additive, as well as agricultural machinery shall be strengthened. Competent authorities shall strictly control the market access of such products, strengthen routine market inspection and rectify the manufacturers and distributors of such products by focusing on the supervision and inspection of the wholesale and retail market of agricultural materials, trading market and distributing center of seed and nursery stock, as well as agricultural materials circulated through postal and courier services. Illegal actions of manufacturing and distributing counterfeit and shoddy agricultural materials shall be cracked down aggressively.



(2) Launching Special Campaign against Counterfeit and Shoddy Food and Medicine

Illegal actions like illegally adding or using nonfood raw material, feeding substandard fodder (to livestock for human consumption), abusing pesticide or veterinary medicine, excessive use or overdose of food additive, meat adulteration or distribution of adulterated meat shall be cracked down aggressively. Competent authorities shall ban the underground den manufacturing Counterfeit and Shoddy food and medicine, crack down the illegal action of distributing counterfeit and shoddy medicine through internet, postal and courier services, and investigate and enforce against the illegal action of the pharmaceutical companies or medicine distributors like intentional manufacturing and distributing counterfeit and shoddy medicine, jerry-built actions, and providing illegal outsourcing services by establishing the tracing-back system of medicinal herbs and cracking down the manufacture and distribution of counterfeit and shoddy medicinal herbs or herbal medicine, adulteration and weighting dyeing of medicinal herbs or herbal medicine, as well as selling seconds medicinal herbs or herbal medicine at best quality price.

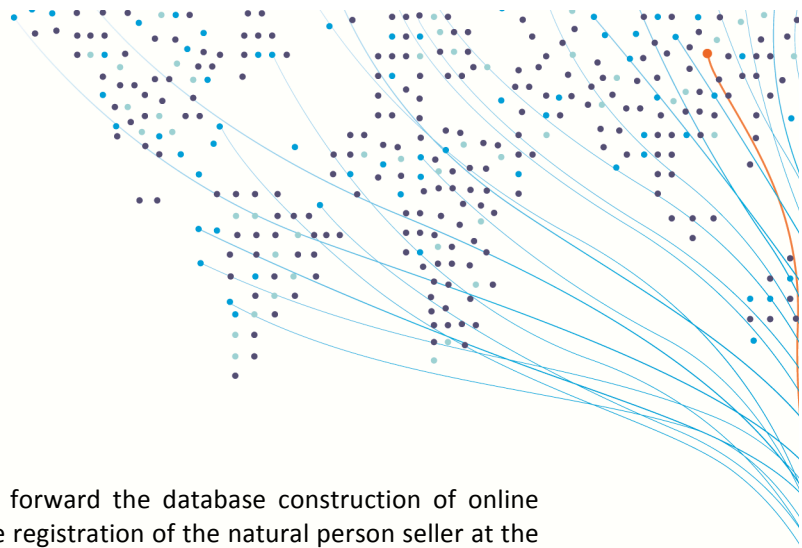
(3) Launching Special Campaign against Illegal Action in Production and Distribution

Competent authorities shall launch special campaigns to control the source of counterfeit and shoddy commodities, initiate quality & safety risk screening programmes, and crack down all varieties of quality-related illegal actions. AQSIQ's "Sword" (literal translation) campaign focusing on key products like agricultural material, food, construction material and automobile component shall be continued. Efforts shall be endeavored to strengthen the quality supervision of commodities in the distribution process. Special campaigns focusing on solving the outstanding issues of great consumer concern pertaining to substandard household electrical appliance, mobile phone, children's appliance, toy and electric tool, as well as counterfeit organic products shall be launched as an effort to strengthen routine supervision and inspection, as well as quality monitoring. Competent authorities shall aggressively crack down the counterfeiting action in key areas like rural-urban fringe zone, rectify the scraped car market, ban illegitimate false advertisement, rectify excessive packaging action and improve the franchising market order.

(4) Launching Special Campaign against Illegal Action in Importation and Exportation

Competent authorities shall crack down illegal action of importing and exporting infringing goods by focusing on food, medicine, automobile component, goods exported to Africa as well as goods imported or exported through postal and courier services. Competent authorities shall crack down the fabrication of the Certificate of Inspection and Quarantine, launch risk analysis of imported or exported agricultural products, prevent the importation and exportation of agricultural products of inferior quality. Competent authorities shall monitor the cosmetic quality safety risk by focusing on the infant skin care products.

(5) Improving Online Commodity Trading Order



Efforts shall be endeavored to push forward the database construction of online business entities, check the real-name registration of the natural person seller at the online trading platform, improve the monitoring of online trading and realize the real-time supervision of online trading action and the service thereof. Competent authorities shall crack down the illegal action of conducting online trading by fabricating or impersonating identity of legitimate market player or distributing counterfeit and shoddy products by internet.

II. Crackdown on Illegal Action of IPR Infringement

(6) Crackdown on Trademark Infringement

Competent authorities shall crack down trademark infringement action by focusing on trademark infringement cases involving well-known trademark and foreign trademark. Competent authorities shall curb the intentional free-riding of others' trademark reputation and trademark pre-emptive registration encroaching public interests in violation of the principle of good faith by adopting approaches like screening, trial in advance and concentrated trial. The special campaign against the free-riding of famous brands shall be launched.

(7) Crackdown on Copyright Infringement

The "Sword Net" (literal translation) campaign (jointly launched by National Copyright Administration, Ministry of Public Security and the Ministry of Industry and Information Technology) shall be continued to crack down infringement and piracy pertaining to network literature, music, video, game, comic, software, etc. Competent authorities shall strengthen the supervision of major video website and internet sales platform, launch special campaign to supervise the printing, replication and publishing action, enhance the supervision over the publication market by focusing on the textbook and supplementary teaching material publication, reference book, best seller and audiovisual products, as well as crack down the infringement and piracy action such as forging signature of the author in the work of fine art and piracy of copyrighted works.

(8) Crackdown on Patent Infringement

The "Convoy" (literal translation) IPR enforcement campaign shall be launched to strengthen the enforcement against the patent infringement pertaining to livelihoods, major programmes, other matters involving foreign elements, etc. Competent authorities shall reinforce the investigation of and enforcement against patent infringement and patent counterfeiting cases, and enhance enforcement action at major fairs and exhibitions.

(9) Crackdown on Other Infringement



Competent authorities shall focus on cracking down the illegal trade secret violation action using unfair means like theft, temptation or coercion, and strengthen the crackdown of IPR-related illegal action including plant new variety infringement, geographical indication infringement and layout-design of Integrated circuits infringement.

(10) Strengthening Supervision and Administration of Culture Market

Special campaign pertaining to the supervision of internet café and the market of entertainment, performance and art work shall be launched in corresponding to the key period like summer break and National Day holiday. Competent authorities shall release the blacklist of illegal internet cultural activities, rectify the online music and online game market, strengthen supervision over website providing internet audiovisual programme service, as well as enhance the crackdown on illegal audiovisual programme website.

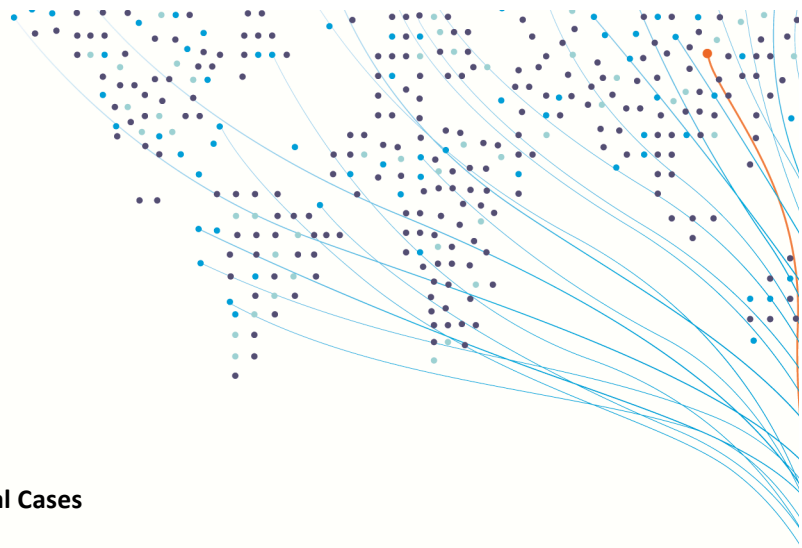
(11) Promoting Copyrighted Software

Efforts shall be endeavored to consolidate the achievements of promoting copyrighted software at central and provincial government. Special campaign investigating and correcting non-copyrighted software at city-level and county-level governmental agencies as well as CPC committee, People's Congress, CPPCC and other organizations of the same level shall be launched and finished. Competent authorities shall promote the copyrighted software among enterprises by focusing on the central state-owned enterprises and large state-owned financial facilities, promote the pre-installation of copyrighted operating system in the fresh-from-the-factory computers, promote the procurement website of copyrighted software and the regional joint procurement of copyrighted software. Competent authorities shall urge the software developer and supplier to regulate their pricing behavior in government procurement, clarify their authorization mode and improve after-sales service. Efforts shall be endeavored to strengthen the establishment of the long-term effective mechanism of promoting copyrighted software campaign, promulgate the administrative methods for installing copyrighted software in government agencies and set the standards for asset allocation of universal office software for government agencies.

III. Maintain High Pressure by Adopting Criminal & Judicial Crackdown Measures

(12) Strengthening Investigation and Prosecution of Infringing and Counterfeiting Criminal Cases

Competent authorities shall aggressively investigate and prosecute criminal cases pertaining to infringing and counterfeiting action by focusing on the criminal action harming innovative development, and endangering boosting domestic demand, employment, people's life and health, safe production and living, as well as food security and peasants' interests.



(13) Strengthening Prosecution of Criminal Cases

Competent authorities shall promptly issue arrest warrant and indict the suspects involved in infringing and counterfeiting criminal cases according to law. Competent authorities shall strengthen supervision over the suspected criminal cases transferred by administrative authorities, enhance supervision over case opening and trial, endeavor great efforts in investigation and prosecution of duty crime, as well as relentlessly indict the “umbrella” shielding the infringing and counterfeiting action.

(14) Strengthening Trial

Competent authorities shall in particularly strengthen the trial in respect of fundamental and cutting-edge research, emerging industries of strategic significance, modern information technology industry, emerging cultural industry like cultural creativity, comic game, network, software, database, etc, as well as trademark counterfeiting and unfair competition action like free-riding of famous brands and violation of trade secret.

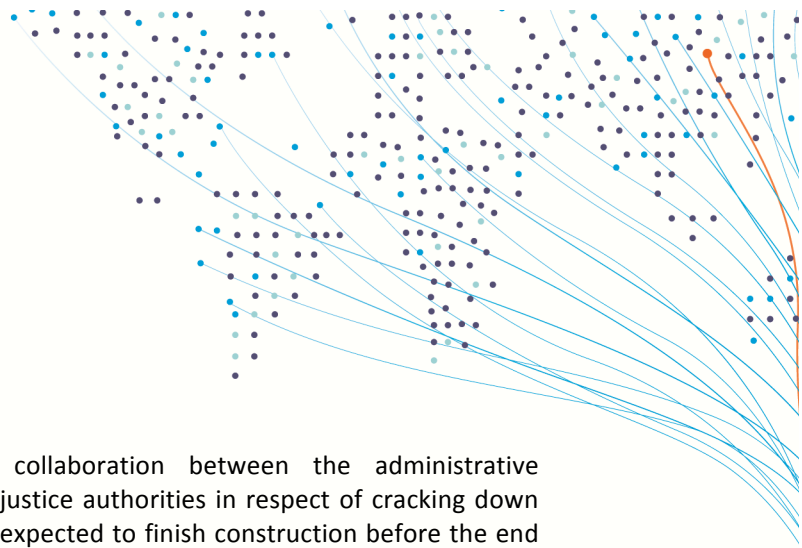
IV. Promotion of Long-term Effective Mechanism

(15) Improving Legal Framework

Efforts shall be endeavored in respect of the amendment of “Trademark Law”, “Copyright Law”, “Patent Law”, “Seed Law”, “Food Safety Law” and “Law Against Unfair Competition”. Competent authorities shall speed up the revision of the “Implementing Regulations for the Trademark Law” and “Regulations on Patent Commissioning”. It shall be made clear that the evidence collected by the administrative enforcement authorities during the process of investigation of and enforcement against infringing and counterfeiting action like physical evidence, documentary evidence, audiovisual material as well as digital data shall be listed as admissible evidence of criminal prosecution. Efforts shall be endeavored in the research of the technical approaches for examination and identification process in infringing and counterfeiting case, exploration of the establishment of result-sharing mechanism, as well as promotion of the incubation of technological outcomes.

(16) Promoting Collaboration between Administrative Enforcement and Criminal Justice

Competent authorities shall strengthen coordination between the administrative enforcement authorities and judicial justice authorities by convening joint sessions, promoting case consult, interview investigation, statistic distribution and supervision & assessment, standardizing the procedure of internal clue distribution, case transfer, case opening and evidence conversion (administrative to judicial, vice versa), adopting means of hotline contact and regular copy, as well as improving the mechanism of online case transfer, online case opening and supervision. The



information sharing platform for collaboration between the administrative enforcement authorities and judicial justice authorities in respect of cracking down infringing and counterfeiting cases is expected to finish construction before the end of 2013.

(17) Improving Appraisal and Supervision Mechanism

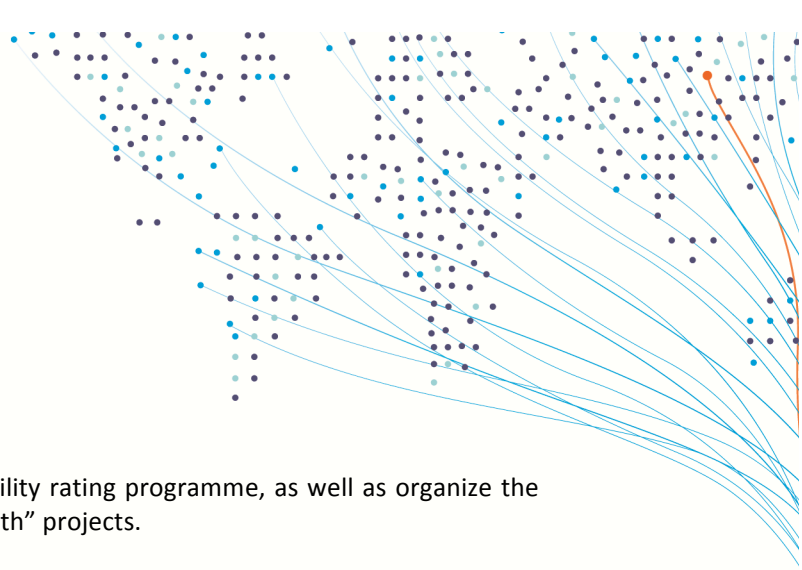
Efforts shall be endeavored in respect of improving the appraisal system assessing the performance on cracking down infringement and counterfeiting action within the competent governmental agencies, and urging local government to list the performance on cracking down infringement and counterfeiting action as a factor of appraisal of officials at various levels, so as to strengthen the officials' responsibility consciousness. Competent authorities shall establish and improve the appraisal system and dedicate themselves in the overall appraisal of the crackdown performance against the infringing and counterfeiting action of 2013. The administrative supervision and accountability shall be strengthened. Competent authorities shall launch special supervision campaign on case transfer and processing, guide and urge the subordinate organ to abide by laws and regulations in respect of case transfer, case opening and case processing, correct the malpractice of law, as well as enhance the hierarchy supervision.

(18) Promoting Disclosure of Case Information

Competent authorities shall include the administrative infringing and counterfeiting case in the government information disclosure program and list the case info disclosure as part of the statistic distribution of crackdown on infringing and counterfeiting case. Competent authorities shall speed up the promulgation of the opinions on the disclosure of the administrative infringing and counterfeiting case by the administrative authorities, release the implementing rules of disclosing the case info of their own agencies in the second half of 2013 as well as disclose the case info in a timely manner. A full inspection will be organized before the end of 2013 to examine the case info disclosure performance of the relevant governmental agencies.

(19) Speeding up the Establishment of Credibility System

The planning outline for constructing social credibility system shall be compiled. Efforts shall be endeavored in respect of speeding up the establishment of quality credibility system, improving nationwide business quality credibility record and product quality credibility platform, pushing forward the pilot project of national key product quality safety tracing-back network, and promoting the social sharing of quality credibility information. Competent authorities shall strengthen the supervision over business credibility rating and categorization, release the blacklist of the information of the manufacturing and trading business and business legal representative as well as person responsible in violation of laws and regulations, explore the possibility of establishing the industrial access-denial mechanism, guide



the industry association in the credibility rating programme, as well as organize the “Credibility Month” and “Quality Month” projects.

V. Strengthening Fundamental Work

(20) Promoting Publicity and Educational Activities

Competent authorities shall strengthen positive publicity by reporting progress and effectiveness of the crackdown on infringing and counterfeiting action so as to create positive public opinion. Efforts shall be endeavored in respect of enhancing internet administration and shaping public opinion, promoting social supervision, addressing the social concerns, and exposing major cases. Competent authorities shall address the issue of high international attention in their PR campaign, enhance the exchange among government, business and consumer through platforms like <http://www.ipraction.cn/>, as well as strengthen the communication between governmental agencies and the right owners by launching “IPR Week” programme, releasing the IPR Protection White Paper in China and launching noncommercial ads on crackdown of infringing and counterfeiting action. Competent authorities shall carry out the Sixth Five-year Plan on Promoting Knowledge of Law and launch the publicity and educational activities on the framework of IPR protection.

(21) Strengthening Enforcement Ability

Efforts shall be endeavored in respect of constructing the basic level enforcement system and onsite rapid detection capacity by equipping the enforcement authorities with necessary personnel, apparatus and equipment. Competent authorities shall strengthen the construction of command platform receiving and processing counterfeit-related complaint, promote the environmental-friendly destruction of infringing and counterfeit products, enhance the separate processing of infringing and counterfeit products, as well as guarantee the fund for destruction. Efforts shall be endeavored in respect of guiding the lawyers in respect of infringing and counterfeiting criminal cases so as to regulate their practice and provide quality service to the clients.

(22) Promoting International Cooperation

Competent authorities shall enhance the enforcement information exchange and enforcement collaboration between Chinese enforcement authorities and their counterparts in developed countries like US, Japan and Europe, as well as nations of emerging markets so as to crack down the cross-border infringing and counterfeiting criminal action. Efforts shall be endeavored in respect of improving the overseas IPR protection mechanism, encouraging the supporting domestic business enforcing their rights overseas and coping with the IPR matters involving foreign elements.