

中国知財ニュース IP NEWS in CHINA

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Adopted Legislation

[1] **The Provisions on the Administration of National Standards Related Patents (Interim) became effective**

[State Intellectual Property Office]

...The Provisions on the Administration of National Standards Related Patents (Interim) jointly formulated by the Standardization Administration of the People's Republic of China (SAC), and State Intellectual Property Office (SIPO) became effective recently. The Provisions for the first time standardizes issues regarding national standards related patent, including the disclosure of patent information, patent license, special provisions on compulsory national standards related patents, etc.

In terms of patent information disclosure, it is prescribed that at whatever stage of national standards amendment, organizations or individuals that participate in standard formulation or amendment should, as early as possible, disclose the necessary patents they own or know to the relevant National Standardization Technical Committee or competent organization, and provide relevant patent information or corresponding certification materials, and be responsible for the authenticity of the certification materials. It is also clarified in the Provisions that patent right owners or patent applicants should make patent license declaration that they agree to, on the basis of fairness, reasonableness, and nondiscrimination, license any organization or individual to implement their patents in applying the

concerned national standards either free of charge or by imposing certain charges, or may also disagree to patent license according to the two ways mentioned above. Without the declaration of patent right owners or patent applicants on consent to license, the national standards should not cover clauses on the concerned patents, unless the standards are compulsory national standards. It is also mentioned in the Provisions that generally compulsory national standards do not involve patents, or if they do relate to patents but patent right owners or patent applicants refuse to make the abovementioned declarations, the SAC, SIPO or other relevant departments should negotiate with the patent right owners or patent applicants on the handling measures. According to the Provisions, before the compulsory national standards that are or may be related to patents are approved to be released, the SAC should announce the full text of the standards and the known patent information to the public for a period of 30 days. The period of public notice may be extended to 60 days upon application, during which any organization or individual may notify the SAC of the other patent information they know of in writing.

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Statistics

[1] Music copyright royalties reached RMB 112 mn in 2013

[National Copyright Administration]

...Reporters learnt from Music Copyright Society of China (MCSC) on January 21 that MCSC has received RMB 112 mn music copyright royalties, 82.23% of which has been distributed to copyright owners. It is learnt that the music copyright royalties in 2013 mainly came from industries such as the Internet, publication, broadcasting, aviation, hotels, retailing, restaurant and catering, and entertainment. Of the RMB 112 mn royalties, the income from performance right license, broadcasting right license, and new media license reached RMB 52.82 mn, RMB 34.74 mn, and RMB 14.12 mn, respectively accounting for 47.16%, 31%, and 12.61% of the total. Income from reproduction right license only totaled RMB 5.1 mn, while income from overseas license amounted to RMB 5 mn.

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News

[1] Funshion in copyright dispute with Jiangsu TV

[National Copyright Administration]

...On January 21, video website Funshion held a press briefing, saying that the TV program broadcasting agreement it signed with Jiangsu TV has been "maliciously terminated" by Jiangsu TV. Earlier on January 14, Jiangsu TV claimed that "Funshion's act of broadcasting certain entertainment TV programs of Jiangsu TV has constituted piracy and infringement", accusing Funshion of infringing its legitimate rights and interests.

According to Yu Qingzhou, vice-president of Funshion, Funshion has signed the Film and TV Program Information Network Broadcasting Right License Contract with Changjianglong Company (new media company under Jiangsu Provincial Radio and TV station), thereby obtained the non-exclusive right to use all TV programs of Jiangsu TV between August 1, 2013 and July 31, 2014, including but not limited to its hot entertainment programs. At the end of 2013, Jiangsu TV required to terminate the said

agreement after it has reached agreement on exclusive broadcasting right license with PPTV. Jiangsu TV was of the opinion that Funshion had failed to perform the contract well, while Funshion believed Changjianglong did not have the right to grant exclusive license for the programs of Jiangsu TV before it has terminated the agreement with Funshion, and such an exclusive copyright cooperation reached with PPTV has infringed the non-exclusive right of Funshion to the programs of Jiangsu TV and therefore should be invalid. Yu Qingzhou revealed that Funshion has filed a lawsuit against Changjianglong, requiring the latter to continue the performance of the contract. Wan Rong, Director of Jiangsu TV, commented that the contract between the two parties has been terminated, and Funshion will commit infringement if it continues to use any program of Jiangsu TV. Changjianglong has also filed an action against Funshion.

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