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TIPLO News

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This news mail distributed in Japanese and English from time to time provides updates on the development of law in Taiwan with focus on intellectual property rights law. For more information about the status of intellectual property right protection and practice in Taiwan, please visit our website www.tiplo.com.tw

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01 Fake version of Nintendo's Famicom Classic Mini consoles involves high value of TWD300 million

In November 2016, a wave of nostalgia swept over local and international video game market as a result of Nintendo's launch of the Classic Mini Family Computer (hereinafter the "Famicom Classic Mini") and the Famicom Classic Mini consoles were soon snapped up by video gamers after restocking at that time. Following the nostalgic trend, a suspect surnamed Chen ("Chen") was arrested by the second company of Criminal Investigation Brigade under the Second Special Police Corps for holding a total of 808 fake Famicom Classic Mini consoles, 183 handheld game consoles (both of which contained 400 illegal copies of games) and also fake 106 packaging boxes in his house, all of which involved the value of more than TWD300 million.

Targeting the foreseeable profits brought by this trend, Chen imported a lot of fake Famicom Classic Mini from China and sold them online at low prices to gain illegal profits in an accrued amount of several hundred thousands, for which the police had referred Chen to Taichung District Prosecutors Office for investigation for his allegedly violation of Taiwan Trademark Act and Taiwan Copyright Act. (May 2017)

/CCS

E170501Y1

02 TIPO-JPO PPH Pilot Program trial period extended by three years from May 1, 2017

Taiwan and Japan has always been closely related to each other in trade and economy. Japan outnumbered any other country in filing a total of 12,006 invention patent applications in Taiwan for 2016, while there had been a total of 1,306 invention patent applications filed with JPO by Taiwanese applicants in the same year. In order to expedite patent application examination and patent granting process on both sides, TIPO and JPO have launched a PPH program with a trial period beginning on May 1, 2012 and further upgraded this program to PPH Mottainai since May 1, 2014.

Now in view of the expiration of the trial period for the PPH Mottainai pilot program on April 30, 2017, both sides agree to an extension of the trial period of this program for three years commencing on May 1, 2017, so as to continue the functioning of the convenient and efficient PPH service to the respective applicants of Taiwan and Japan. (May 2017)

/CCS

E170526Y4

03 Legislature greenlights Fair Trade Act amendment in regard to hostile takeover

On May 26, 2017, Taiwan Legislature passed the third reading of the amendment to Article 11 of the Fair Trade Act with respect to hostile takeover. This amendment extends the time period for Fair Trade Commission's examination on proposed merger filings from 30 days to 30 working days, so as to avoid affecting examination impartiality as a result of examination period shortened by long weekend or any other factors.

In addition, according to this amendment, the Fair Trade Commission may seek outside opinions with respect to any proposed merger filing and may also request for industrial economic analysis on the filing to be provided by academic research institutions when necessary. Moreover, where any enterprise in a merger does not agree to the proposed merger, the Fair Trade Commission should provide the filing enterprise's cause for merger to the said enterprise to seek opinions thereof. (May 2017)

/CCS

E170518Y4

04 Bubble tea shop pays damages for violation of Taiwan Fair Trade Act

At the 2016 US Presidential Election campaign, the Democratic presidential candidate, Hillary Clinton tried bubble tea at Kung Fu Tea shop in New York established by KF Tea USA Inc. ("KF Tea"), which event was widely reported on Taiwan's press. Engaged in the same business but unrelated to KF Tea, Roten Ming International Co., Ltd. ("Roten Ming") was interviewed and its employee said that Roten Ming is "quite related to" KF Tea. Moreover, Roten Ming shared a post on their FB fanpage indicating that "The "Kong Fu Tea" praised by Hillary Clinton comes from Taichung, Taiwan. We are reported in the international front-page story." This post triggered KF Tea's initiation of an action against Roten Ming, and later the Taiwan IP Court sustained Roten Ming's violation of the Taiwan Fair Trade Act and awarded KF Tea TWD3 million in damages.

Roten Ming defended itself by saying that its employee clearly told the press that the bubble tea Hillary Clinton drank is not Roten Ming's product, and that Roten Ming decided to be interviewed because they were told to talk about the origin of bubble tea in Taiwan. Therefore, Roten Ming did not make false statements. In addition, Roten Ming's employee talked about Roten Ming being "quite related to" KF Tea, which means that two companies both sell bubble tea, and their bubble tea products are related to each other to some extent in regard to their respective name and source of ingredients.

The judge of IP Court held that the description of "quite related" is a vague one bringing the free-riding effect. Roten Ming, however, made defensive arguments about the act of making false statement alleged against it on the one hand, but presented relevant news reports to attract customers' attention on the other. Therefore, the IP Court decided that the foregoing act of Roten Ming is a misleading act in violation of Fair Trade Act. This case is appealable. (May 2017)

/CCS

E170505Y6

05 Taiwan Judicial Yuan launches e-filing system for action initiation and briefs exchange

To promote e-filing for litigation, the Taiwan Judicial Yuan has initiated e-filing services for intellectual property-related administrative suits and tax-related administrative suits since July and September, 2015, respectively. After that, the coverage of the e-filing services has been expanded to actions at the first and second instances since May 2, 2017, so that the litigants and their representatives and attorneys may make and exchange submissions through the e-filing system (<https://efiling.judicial.gov.tw>) in the procedures of initiating an action, filing a motion, filing an appeal, filing an interlocutory appeal, and also requesting for re-hearing with

the Supreme Administrative Court, all High Administrative Courts, IP Court, and all district courts, for enhancing litigation efficiency and promote national competitiveness.

The e-filing system is available 24 hours a day to provide litigants and their representatives with a more convenient processing system. Written statements delivered through the e-filing system will have the same effect with those submitted in paper, as long as the delivery process thereof has been completed. In addition, litigants and their representatives will be able to review case files and obtain electronic copies of the adverse party's written statements and keep up with the case status through the system without going to the court.

On April 12, 2017, the Judicial Yuan made an announcement that the coverage of the e-filing service is expanded to cover the intellectual property-related and tax-related administrative suits filed with high administrative courts, IP Court, and administrative tribunals of district courts. The e-filing system is not available to the matters regarding (1) the briefs or evidence with respect to trade secrets, (2) motions for evidence perpetuation, confidentiality preservation order, provisional attachment, preliminary injunction, injunction maintaining a temporary status quo, and stay of execution, and (3) documents that should be signed in accordance with the laws by the litigants who have no access to the e-filing system (such as, POA and termination of appointment, etc.).

To enhance trial efficiency and judicial transparency, the Judicial Yuan has launched the unilateral online system for litigation initiation (namely, the online system is available even if only one party to an action agrees to use the system) and the online integral system for case files review. Litigants and their representatives may obtain electronic copies of case files to fulfill the paperless purposes. In addition, at court hearings, litigants, representatives, and judge may take advantage of the online system to present electronic briefs and case files by e-court facilities. (May 2017)

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06 Taiwan is the 14th most competitive economy worldwide in the 2017 IMD World Competitiveness Ranking

The Switzerland-based International Institute for Management Development (IMD) issued the 2017 IMD World Competitiveness Yearbook, according to which Taiwan maintained its 2016 ranking at the 14th position among the 63 assessed economies and also placed 3rd in the Asia-Pacific region, following Hong Kong and Singapore, in that order.

The IMD World Competitiveness Ranking rates the 63 economies based on a lot of criteria which are grouped into four main categories of government efficiency, economic performance, business efficiency, and infrastructure. Taiwan ranked No. 10 in government efficiency worldwide, its best score this year, and climbed three notches from No. 15 in 2016 to No. 12 in economic performance this year. In addition, Taiwan was No. 15 in the business efficiency area, while came in at No. 21 in the infrastructure sector.

Besides, Taiwan ranked 12th in digital competitiveness globally and 3rd in Asia Pacific region, behind Singapore and Hong Kong. The Digital Competitiveness Ranking assesses economies by three main indicators which are knowledge,

technology, and future readiness. Taiwan finished 7th in technology and 16th both in both knowledge and future readiness. Compared with its performance in 2016, Taiwan made its most progress in future readiness by surging from No. 22 to No. 16 in that indicator. (June 2017)

/CCS



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