



Please rest assured that Taiwan IPO and our firm have been maintaining normal operation as the coronavirus pandemic spreads throughout the world.

When faced with the severe global health crisis triggered by the pandemic, please take good care of your health and stay healthy.

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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E210205Y1

01 Taiwanese farmer ordered to pay TWD520,000 as damages for illegally cultivating new pear variety

A fruit farmer, LIU Shen-Quan (hereinafter referred to “Liu”) has been engaged in cultivating Taiwanese native pears for twenty years and selected improved varieties from 2000 and more crossbred ones. His remarkable achievement is that Liu has successfully developed and cultivated a new hybrid pear variety named “Baodao Ganlu” by crossbreeding Taiwan’s native pear, “Pear Taichung 2” and “Hsin Shing Pear”, a hybrid between Taiwanese pears and Japanese pears. In Taiwan, there have been 200 and more farmers who have acquired a license for this new pear variety by paying TWD50,000. However, 600 and more farmers are growing the new variety by grafting the patented scions of the new pear variety without due authorization and licensing, and at least 1,000 hectares of land are illegally cultivated with the new pear variety. For this circumstance, Liu filed an infringement lawsuit against a fruit farmer, WANG Min-Yuan two years ago and this case ended up in Liu’s favor with Liu being awarded TWD520,000 and 5% interest thereof as damages. This case is appealable. (Released 2021.02.05)

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02 Well-known local hotel successfully overturns IP Court judgment on room design imitation dispute

LDC Hotels & Resorts Group (Chinese: 雲朗觀光股份有限公司; hereinafter referred to as “LDC Hotels”) sued Gui Tian Xi Yue Hotel Co., Ltd. (Chinese: 桂田璽悅酒店股份有限公司; hereinafter referred to as “Gui Tian Xi Yue”) for economic right infringement on the ground that the room furnishings of Sheraton Taitung Hotel (owned by Gui Tian Xi Yue; hereinafter referred to as “Sheraton Taitung”) was highly similar to that of Palais de Chine Hotel (owned by LDC Hotels). Gui Tian Xi Yue lost the lawsuit in the first and second instance proceedings and was ordered to pay TWD5 million in damages to LDC Hotels and also to remove the infringing furnishings. Thus, Gui Tian Xi Yue appealed this case to the Supreme Court, which ultimately found Gui Tian Xi Yue’s appeal well-grounded and vacated the IP Court judgment and also remanded this case back to the IP Court for retrial.

LDC Hotels maintained that the furniture, decoration, and interior design of the hotel rooms of Palais de Chine Hotel are cozy, classic, and elegant and represent a creative conception characterized by a combination of the Louis XVI style and oriental style, which forms an original, artistic, and aesthetic architectural work eligible for copyright protection. By this reason, LDC Hotels filed a lawsuit against Gui Tian Xi Yue, alleging that the room design of Sheraton Taitung was an imitation, to a high degree, of that of Palais de Chine Hotel with only minor adjustments, and Gui Tian Xi Yue displayed the room design on Sheraton Taitung’s official website and local major room booking service websites to solicit consumers. By imitating the room design of Palais de Chine Hotel, Gui Tian Xi Yue has saved not only time in design and decoration but also a vast cost of design, which is sufficient to affect the trading order in the tourist and hotel industry.

To beat LDC Hotels’ allegation, Gui Tian Xi Yue made the counterarguments that the room design alleged was not a work eligible for copyright protection and lacks artistry and originality, and that Gui Tian Xi Yue had hired a designer for the hotel room design of Sheraton Taitung, and there involved no occurrence of imitation accordingly. Moreover, Gui Tian Xi Yue explained that Palais de Chine Hotel took

reference of the furniture, decoration, and furnishings preferred and adopted by the industry, and the appearance, choice and size of the furniture, the lighting and layout of its room design lack originality, which can be substantiated by such evidence as the notarial deed of the furniture catalogue, books, and rating assessment report by the Tourism Bureau, Ministry of Transportation and Communications.

Contrary to the IP Court's first and second instance judgments that the room design of Palais de Chine Hotel amounted to an architectural work eligible for copyright protection, the Supreme Court overturned the IP Court judgment and found it challengeable on the grounds that the IP Court determined and sustained the room design of Palais de Chine Hotel as an architectural work eligible for copyright protection without addressing the reason why the defensive methods and evidence produced by Gui Tian Xi Yue were denied. The Supreme Court also found it questionable that if Gui Tian Xi Yue's imitation of Palais de Chine Hotel's room design was sustained, the IP Court made a decision against Gui Tian Xi Yue without examining Gui Tian Xi Yue's defensive arguments and evidence with respect to the issue whether such imitation amounted to a deceptive or obviously unfair act that was able to affect trading order. That is to say, the IP court contravened the laws by failing to provide reasons and thus the IP Court judgment should be vacated accordingly. (Released 2021.02.11)

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E210205Y3

03 Criminal Investigation Bureau cracks down on illegal set top box in Taiwan

As reported in the press release issued by the Criminal Investigation Bureau, National Police Agency under the Ministry of the Interior, various illegal OTT device that is claimed to be able to provide free access to local DBS and cable TV programs, American, Japanese, Korean, and Taiwanese TV series and movies has been flooding the market in recent years. The investigation reveals that crime syndicates have been establishing web server in telecommunication facilities located within Taiwan to decrypt the legal TV signals sent by local major TV stations and then transmit the same to illegal set top boxes for consumers' viewing, which forms infringement upon many local and Japanese TV channels' intellectual property rights. The victims of such infringement authorized the Satellite Television Broadcasting Association, R.O.C. and the Content Overseas Distribution Association to file a complaint with the Telecommunications Investigation Corps of the Criminal Investigation Bureau and the Criminal Investigation Brigade of the Second Special Police Corps.

To curb the aforesaid illegal broadcasting, the Criminal Investigation Bureau has organized a taskforce since early 2021 with an aim to wipe out illegal set top boxes and venues. The investigation has been going on for several months and ended up seizure of a total of 778 illegal set top boxes and 9 web servers uncovered from the search on 18 distributors and control rooms located in New Taipei City, Taoyuan City, and Taichung City, etc., and the value involved in this illegal activity amounted to more than TWD1 billion. (Released 2021.02.05)

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04 Largan Precision Co. settles trade secret infringement lawsuit with local rival, Ability Opto-Electronics

On March 5, 2021, both Largan Precision Co., Ltd. (hereinafter referred to as “Largan”) and Ability Opto-Electronics Technology Co., Ltd. (hereinafter referred to as “Ability”) issued a statement to announce that the companies have inked a confidential settlement agreement on the lawsuits involving trade secret disputes. According to the settlement agreement, Largan will withdraw all lawsuits including the provisional seizure petition and damages claim against Ability. Details of the settlement agreement should be kept confidential for involving trade secrets of the companies.

For the civil aspects of the case where Largan’s former employees colluded with Ability to steal and use Largan’s trade secrets and even successfully filed patent applications involving the stolen technology data, on January 28, 2021, the IP Court upheld the first instance judgment in favor of Largan by establishing Ability’s and the other defendants’ infringement and ordered Ability and the other defendants to jointly and severally pay about TWD1.52 billion to Largan in compensation. Now with a successful settlement reached by the companies, this long-drawn-out litigation between Largan and Ability has finally ended. (Released 2021.03.05)

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