

## Abstract

### China's IP enforcement and its implications

#### - Focusing on the analysis of a WTO case on IP enforcement-

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After China's entry into the WTO, its market scale has expanded considerably and, in accordance, the total value of intellectual properties traded in the market has increased at a rapid pace. However, this also implies that disputes regarding IPR in China will be accelerated. The United States, a top trademark-applicant in China, has been responding to these issues most sensitively. In April 2007, the U.S. requested a consultation with China with respect to IP enforcement in China, which proceeded further to establish a panel. In this case, three issues have been raised including denial of protection to works that have not been authorized for publication and distribution, custom's measures on disposal of IPR infringing goods, and criminal punishment thresholds.

First, regarding the Copyright Law issue, the U.S. claims that China is acting inconsistently with its obligations under the TRIPs Agreement by denying the protection of works that have not been authorized for publication or distribution within China. Its second claim involved Chinese customs measures on infringing goods, which allegedly do not dispose of confiscated goods that infringe intellectual property rights in a manner that is inconsistent with China's obligations under the TRIPs Agreement. Finally, the U.S. claims that China has not provided for criminal procedures and penalties to be applied in cases of wilful trademark counterfeiting or copyright piracy on a commercial scale that fail to meet certain thresholds.

Panel found that evidences submitted by the U.S. do not successfully prove its claim as to criminal thresholds, but Chinese Copyright Law provision and the customs measures at issue are inconsistent with China's obligations under the TRIPs Agreement.

In this paper, a gist of each party's arguments and panel's findings is analyzed, which would give an insight to the forthcoming changes in China's IP enforcement. Based on this analysis and implementation of China led by this case, this paper added some comments on implications to Korea.

**Keywords** : U.S.-China IPR dispute, China's IP enforcement, Copyright protection, Trademark protection, Custom measures, Criminal thresholds for IP protection