

The United States – China Intellectual Property Rights (IPR) Cooperation Framework Agreement

Objectives of the Framework:

The Government of the United States of America and Government of the People's Republic of China ("the Parties") agree to develop a comprehensive framework for intellectual property rights ("IPR") cooperation. The Parties will work together through the Framework to achieve the following objectives:

1. help improve the environment for IPR protection and enforcement in the territory of each Party;
2. create a legal and business environment that supports innovation through policies implementing the principles of non-discrimination, support for market competition, strong IPR protection and enforcement, and non-involvement of government in enterprises' business decisions;
3. deepen mutual understanding of intellectual property issues;
4. develop an environment that promotes investment and economic development;
5. create benefits for consumers and IPR holders; and
6. promote the sustainable and mutually advantageous development of the U.S.-China bilateral economic relationship.

The Framework will focus on technical assistance, capacity building, and other forms of collaboration aimed at carrying out bilateral intellectual property ("IP") cooperation in a more systematic and effective way.

Structure of the Framework:

The Parties hereby establish the United States – China Intellectual Property Rights Cooperation Framework ("The Framework"). The Framework Coordinators will be the co-chairs of the Joint Commission on Commerce and Trade (JCCT) Intellectual Property Working Group: the Ministry of Commerce of the People's Republic of China (MOFCOM) for China and the Office of the United States Trade Representative (USTR) and the United States Patent and Trademark Office (USPTO) for the United States.

The Framework Coordinators will establish an advisory group ("the Advisory Group") responsible for developing and monitoring implementation of work plans under the Framework. The Advisory Group will consist of two representatives from each side and will meet at least twice a year in advance of the JCCT IPR Working Group meetings. The Advisory Group will make all decisions by consensus.

As described further below, the Advisory Group will develop and approve an annual work plan and will identify funding mechanisms for each year. The Advisory Group will also monitor the effectiveness of programs carried out under the annual work plan and report on its implementation to the IPR Working Group at the Vice-Minister level of the JCCT.

Core Components of the Framework:

The Framework will consist of a number of core components, including, *inter alia*:

1. *Engaging in technical assistance and capacity building:* Cooperation under the Framework should promote seminars, symposiums, workshops, studies, and other forms of collaboration involving U.S. agencies and Chinese ministries and offices involved with IPR issues;
2. *Raising public awareness of IP:* Programs under the Framework should work to raise the public awareness of and respect for IPR through joint activities and other forms of collaboration;
3. *Encouraging local involvement:* The Framework Coordinators and other participants in the Framework at the Central or Federal level of government shall endeavor to work with government agencies and other entities at the Provincial, State, and municipal levels to enhance the environment for IPR protection and enforcement at the sub-national level;
4. *Fostering collaboration with universities and academic institutions:* Programs under the Framework should encourage information exchanges and other collaborative activities among IP departments at Chinese and U.S. universities and Chinese and U.S. agencies responsible for IPR issues;
5. *Promoting exchanges with the judiciary:* Programs under the Framework should promote exchanges involving U.S. and Chinese judges to share experiences and information with a view to enhancing the efficiency of the judiciary of China and the United States in resolving IPR disputes; and
6. *Legislative exchanges:* Programs under the Framework should promote further legislative exchanges between the Chinese and U.S. Governments, including legislative entities responsible for drafting IP-related laws and regulations.

The Parties may agree upon other further areas of cooperation and collaboration on IPR issues within the context of this Framework.

Annual Work Plan:

The Advisory Group will produce an annual work plan in advance of any given calendar year, with the exception of the initial work plan which will cover the period 2012-2013. The annual work plan will be comprehensive and will reflect all the training programs that the United States and China intend to implement in the upcoming year. The annual work plan will also address other collaborative activities of common interest to U.S. and Chinese agencies and ministries responsible for IPR issues, and it will include a schedule of work and basic budget information. The initial work plan shall be targeted to adopting policies and measures that enhance IPR protection and enforcement based on results of China's Special IPR Campaign.

The Advisory Group's annual work plans are not intended to replicate current work plans under existing agreements or Memoranda of Understanding with China's patent, trademark, copyright and customs agencies. The Parties must agree to the annual work plan and budget for each year before programs or other work can be commenced under the annual work plan. The Advisory Group may amend and adjust the annual work plan at a later date as appropriate. The Parties agree that all costs associated with this Framework and the programs and work done pursuant to this Framework should be equitably shared.

Launch of the Framework:

To launch the Framework, the Parties will convene a workshop in late 2011 or early 2012 to discuss technical assistance and capacity building. The workshop will inventory the training that the United States has been providing to China, analyze where that technical assistance and training has been most effective at achieving its objectives, and assess the areas where additional technical assistance and training is most needed. The workshop will also focus on discussing new ways to deliver technical assistance and training, and furthering relationships among the Parties and new industry partners and academic institutions.

Entry into Force, Amendments, Extension, and Termination:

1. This agreement shall enter into force upon signature by both Parties.
2. This agreement may be amended by written agreement of the Parties to improve the functioning of the Framework and to address issues related to the structure and management of the Framework.
3. This agreement shall terminate on December 31, 2017 unless the Parties agree in writing to extend the agreement. Either Party may terminate the agreement at another time by providing written notification to the other Party, in which case such termination shall be effective six months after the date of notification.

Done in Chengdu, People's Republic of China, on 21st November 21, 2011, in the English language.

A Chinese language text of this Agreement, when verified and accepted by both Parties, will be equally authentic to the English language text.

For the Government of the United States
of America

For the Government of the People's
Republic of China






