

## **Creation of a new informal mechanism for complaints of Swiss companies regarding IPR infringements on the Internet**

In March 2014, Switzerland and China agreed to set up an informal mechanism through which complaints of Swiss companies in the area of online infringements of intellectual property (IP) rights can be channelled to the relevant Chinese authorities.

This initiative originates in the Swiss-Chinese dialogue on IP. In 2011, the National Leading Group on the Fight against IPR Infringement and Counterfeiting was created in the PRC. It is composed of 29 Chinese authorities and aims at strengthening coordination among them in the field of IP rights enforcement. In June 2013, the Office of the IPR Leading Group was created. It is hosted by MOFCOM and acts as a Secretariat to the IPR Leading Group. On the Swiss side, the Swiss Embassy, the Swiss Federal Institute of Intellectual Property and Swisscham work together to set up an informal complaints mechanism and thus to receive, screen and transmit relevant cases to the Office of the IPR Leading Group.

This informal complaints mechanism is currently operating on a trial-basis. Swiss and Chinese authorities will take stocks of experiences made in the first Half of 2015.

<b>WHAT</b> complaints can be submitted?	Any complaints regarding IPR infringements on Chinese websites (website operator in PRC), regarding products and services for sale on websites or online advertisement.
<b>WHEN</b> can complaints be submitted?	Prior to submitting a complaint, the right holder (company) is required to request take-down of the reference to infringing products or services or advertisement thereof through the processes designed to this end by the relevant internet platform or website. Only if attempts to use the existing procedures have proven to be in vain, a complaint can be submitted here.
<b>WHO</b> can submit complaints?	Swiss companies that hold relevant IP rights in China which they see infringed on Chinese websites, including incorrect or misleading use of the Swiss flag (Swiss Cross).
<b>WHERE</b> to send complaints to?	<a href="mailto:IPR@bei.swisscham.org">IPR@bei.swisscham.org</a>
<b>HOW</b> to compile information?	Please include the following in your submission: <ul style="list-style-type: none"> <li>- Which IP right of yours has been infringed (patent, trademark, copyright, geographical indication etc. including relevant registration numbers)?</li> <li>- Where did/does the infringement occur (URL)?</li> </ul>

	<ul style="list-style-type: none"><li>- When did the infringement occur (or when have you noticed), and is it still occurring)?</li><li>- What have you done to achieve take-down by the website operator?</li><li>- Have you contacted any Chinese authorities with regard to your complaint (if yes, specify)?</li><li>- Supporting evidence (screenshots)</li></ul>
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N.B. Please note that the Swiss authorities reserve the right to select which complaints to forward to Chinese authorities.

Complaints need to clearly fit within the mandate agreed upon between the Swiss and Chinese authorities. In addition, we need to make sure the cases we transmit are solid and well-founded. This is crucial for the credibility of this mechanism which, if recognised as credible, will benefit all companies that experience difficulties due to infringements of their IP rights on the Internet.

N.B. If the perceived infringer holds a IPR right in the PRC (for example, a registered trademark), a complaint cannot be submitted under the present procedure.

In such cases, you need to contest the said registration by undertaking legal action.