

• The Measures for Administration of Chinese Foreign Contractual Distribution Ventures of Audiovisual Products.

It appears that these measures prohibit foreign service suppliers (including wholly or partially foreign-owned or foreign-invested enterprises) from engaging at least in certain types of distribution of publications and audiovisual home entertainment products within China. In addition, to the extent that some foreign service suppliers are allowed to engage in some aspects of the distribution of publications, there appear to be discriminatory requirements concerning such suppliers' registered capital, such suppliers' operating term, and the particular publications that such suppliers may distribute. Furthermore, to the extent that foreign services suppliers are permitted to engage in any distribution of audiovisual home entertainment products, the measures at issue appear to impose requirements that the service be supplied through a form of entity that Chinese persons control, or in which Chinese persons have a dominant position, or for which there is a limitation on the participation of foreign capital. These measures appear to USTR to be inconsistent with China's obligations under Articles XVI and XVII of the General Agreement on Trade in Services.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments should be submitted (i) Electronically, to FR0708@ustr.eop.gov, with "China Trading Rights and Distribution Services (DS363)" in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395-3640, with a confirmation copy sent electronically to the electronic mail address above.

USTR encourages the submission of documents in Adobe PDF format as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Comments must be in English. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business

confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly designated as such and "BUSINESS CONFIDENTIAL" must be marked at the top and bottom of the cover page and each succeeding page. Persons who submit confidential business information are encouraged also to provide a non-confidential summary of the information.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

- (1) Must clearly so designate the information or advice;
- (2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" at the top and bottom of the cover page and each succeeding page; and
- (3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions; the submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel; and, if applicable, the report of the Appellate Body. The USTR Reading Room is open to the public, by appointment only, from 10 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday. An appointment to review the public file (Docket WTO/DS-363, China Trading Rights and Distribution Services Dispute) may be made by calling the USTR Reading Room at (202) 395-6186.

Daniel Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. E7-7606 Filed 4-20-07; 8:45 am]

BILLING CODE 3190-W7-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS-362]

WTO Dispute Settlement Proceeding Regarding China—Measures Affecting the Protection and Enforcement of Intellectual Property Rights

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that on April 10, 2007, in accordance with the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement), the United States requested consultations with respect to certain measures pertaining to the protection and enforcement of intellectual property rights in China. That request may be found at <http://www.wto.org> contained in a document designated as WT/DS362/1. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the consultations, comments should be submitted on or before May 7, 2007 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) Electronically, to FR0707@ustr.eop.gov, with "China IPR Protection and Enforcement (DS362)" in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395-3640, with a confirmation copy sent electronically to the electronic mail address above, in accordance with the requirements for submission set out below.

FOR FURTHER INFORMATION CONTACT: Steven F. Fabry, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395-3150.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. In an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU"). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would

hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within nine months after it is established.

Major Issues Raised by the United States

On April 10, 2007, the United States requested consultations with China with respect to certain measures pertaining to the protection and enforcement of intellectual property rights in China.

The first matter on which the United States has requested consultations concerns the thresholds that must be met in order for certain acts of trademark counterfeiting and copyright piracy to be subject to criminal procedures and penalties. In this regard, the measures at issue include the following, as well as any amendments and related or implementing measures: the Criminal Law of the People's Republic of China, in particular Articles 213, 214, 215, 217, 218, and 220; and two interpretations by the Supreme People's Court and the Supreme People's Procuratorate on several issues of concrete application of law in handling criminal cases of infringing intellectual property (one adopted on November 2, 2004, and the other adopted on April 4, 2007). It appears that, because of these measures, certain acts of trademark counterfeiting and copyright piracy occurring on a commercial scale in China are not subject to criminal procedures and penalties in China. These measures appear to USTR to be inconsistent with China's obligations under Articles 41.1 and 61 of the Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS Agreement").

The second matter on which the United States has requested consultations concerns goods that infringe intellectual property rights that are confiscated by Chinese customs authorities, in particular the disposal of such goods following removal of their infringing features. In this regard, the measures at issue include the following, as well as any amendments and related or implementing measures: the Regulations of the People's Republic of China for Customs Protection of Intellectual Property Rights, in particular Chapter 4 thereof, and the Implementing Measures of Customs of the People's Republic of China for the Regulations of the People's Republic of China on Customs Protection of Intellectual Property Rights, in particular Chapter 5 thereof. It appears that, because of these measures, the customs authorities often appear to be required to give priority to options for

disposal of goods that infringe intellectual property rights that would allow such goods to enter the channels of commerce (for instance, through auctioning the goods after removing their infringing features). The requirement that infringing goods be released into the channels of commerce under the circumstances set forth in the measures at issue appears to USTR to be inconsistent with China's obligations under Articles 46 and 59 of the TRIPS Agreement.

The third matter on which the United States has requested consultations concerns the denial of copyright and related rights protection and enforcement to creative works of authorship, sound recordings, and performances that have not been authorized for publication or distribution within China. For example, it appears that works that are required to undergo censorship review (or other forms of pre-publication or pre-distribution review) before entering the Chinese market are not protected by copyright before the review is complete and publication and distribution within China has been authorized. In this regard, the measures at issue include the following, as well as any amendments and related or implementing measures:

- The Copyright Law, in particular Article 4;
- The Criminal Law, the Regulations on the Administration of Publishing Industry, the Regulations on the Administration of Broadcasting, the Regulations on the Administration of Audiovisual Products, the Regulations on the Administration of films, and the Regulations on the Administration of Telecommunication;
- The Administrative Regulations on Audiovisual Products;
- The Administrative Regulation on Publishing;
- The Administrative Regulations on Electronic Publications;
- The Measures for the Administration of Import of Audio and Video Products;
- The Procedures for Examination and Approval for Publishing Finished Electronic Publication Items Licensed by a Foreign Copyright Owner;
- The Procedures for Examination and Approval of Importation of Finished Electronic Publication Items by Electronic Publication Importation Entities;
- The Procedures for Recording of Imported Publications;
- The Interim Regulations on Internet Culture Administration; and
- The Several Opinions on the Development and Regulation of Network Music.

It appears that, because of the Copyright Law, authors of works whose publication or distribution has not been authorized (and whose publication or distribution is therefore prohibited) appear not to enjoy the minimum standards of protection specially granted by the Berne Convention for the Protection of Literary and Artistic Works (1971) (the "Berne Convention") in respect of those works (and may never enjoy such protection if the work is not authorized, or is not authorized for distribution or publication in the form as submitted for review). In addition, the rights of authors of works whose publication or distribution is required to undergo pre-publication or pre-distribution review appear to be subject to the formality of successful conclusion of such review. The foregoing appears to USTR to be inconsistent with China's obligations under Articles 9.1 and 41.1 of the TRIPS Agreement. Furthermore, to the extent that the Copyright Law also denies the protection of certain rights to performers and producers of sound recordings during the period of any pre-publication or pre-distribution prohibition, the Copyright Law appears to be inconsistent with China's obligations under Articles 14 and 41.1 of the TRIPS Agreement.

In addition, it appears that the measures at issue provide different pre-distribution and pre-authorization review processes for Chinese nationals' works, performances (or their fixations) and sound recordings than for foreign nationals' works, performances (or their fixations) and sound recordings. To the extent that these different processes, taken together with Article 4 of the Copyright Law, result in earlier or otherwise more favorable protection or enforcement of copyright or related rights for Chinese authors' works, Chinese performers' performances (or their fixations) and Chinese producers' sound recordings than for foreign authors' works, foreign performers' performances (or their fixations) and foreign producers' sound recordings, the measures at issue appear to be inconsistent with China's obligations under TRIPS Agreement Articles 3.1, 9.1 and 41.1.

The fourth matter on which the United States has requested consultations concerns the scope of coverage of criminal procedures and penalties for unauthorized reproduction or unauthorized distribution of copyrighted works. In particular, it appears that unauthorized reproduction of copyrighted works by itself—that is, unauthorized reproduction that is not accompanied by unauthorized

distribution—may not be subject to criminal procedures and penalties. Likewise, it appears that unauthorized distribution of copyrighted works by itself—that is, unauthorized distribution that is not accompanied by unauthorized reproduction—may not be subject to criminal procedures and penalties. In this regard, the measures at issue include the Criminal Law, in particular Article 217, as well as any amendments, related measures, or implementing measures. To the extent that wilful copyright piracy on a commercial scale that consists of unauthorized reproduction—but not unauthorized distribution—of copyrighted works, and *vice versa*, may not be subject to criminal procedures and penalties under the law of China, this would appear to USTR to be inconsistent with China's obligations under Articles 41.1 and 61 of the TRIPS Agreement.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments should be submitted (i) Electronically, to FR0707@ustr.eop.gov, with "China IPR Protection and Enforcement (DS362)" in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395-3640, with a confirmation copy sent electronically to the electronic mail address above.

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Daniel Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. E7-7612 Filed 4-20-07; 8:45 am]

BILLING CODE 3190-W7-P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions granting authority to make appointments under Schedules A, B, and C in the excepted service as required by 5 CFR 6.6 and 213.103.

FOR FURTHER INFORMATION CONTACT: C. Penn, Executive Resources Services

Group, Center for Human Resources, Division for Human Capital Leadership and Merit System Accountability, 202-606-2246.

SUPPLEMENTARY INFORMATION: Appearing in the listing below are the individual authorities established under Schedules A, B, and C between March 1, 2007, and March 31, 2007. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 is published each year.

Schedule A

Section 213.3170 Millennium Challenge Corporation

(a) All positions established to create the Millennium Challenge Corporation. No new appointments may be made under this authority after September 30, 2007. Effective April 1, 2007.

Schedule B

No Schedule B appointments were approved for March 2007.

Schedule C

The following Schedule C appointments were approved during March 2007.

Section 213.3303 Executive Office of the President

Office of Science and Technology Policy

TSGS60046 Assistant Director for Telecommunications and Information Technology to the Chief of Staff and General Counsel. Effective March 09, 2007.

TSGS60047 Deputy Chief of Staff and Associate General Counsel to the Chief of Staff and General Counsel. Effective March 09, 2007.

Office of National Drug Control Policy

QQGS70004 Public Affairs Specialist (Media Campaign) to the Associate Director for Public Affairs. Effective March 09, 2007.

QQGS70005 Confidential Assistant to the Deputy Director for Supply Reduction. Effective March 13, 2007.

Section 213.3304 Department of State

DSGS61217 Public Affairs Specialist to the Assistant Secretary for Public Affairs. Effective March 06, 2007.

DSGS61214 Staff Assistant to the Director, Policy Planning Staff. Effective March 09, 2007.

DSGS61220 Senior Advisor to the Assistant Secretary Oceans, International Environment and Science Affairs. Effective March 16, 2007.

DSGS61219 Foreign Affairs Officer to the Assistant Secretary. Effective March 20, 2007.