

**W E N G E R & V I E L I**  
ATTORNEYS-AT-LAW



瑞士文斐律师事务所北京代表处

# CHINA LEGAL BRIEFING\* 153

JULY 10 – JULY 15, 2006



\* CHINA LEGAL BRIEFING is a weekly collection of Chinese law related news gathered from various media and news services, edited by WENGER & VIELI and distributed to its clients and CHINA LEGAL REPORT SUBSCRIBERS. W&V does not accept responsibility for accuracy of quotes or truthfulness of content. CHINA LEGAL BRIEFING is not intended to provide advice.

- 1 The Circular of Ministry of Health of the People's Republic of China Regarding Printing and Distributing the Administrative Measures of Sanitary Standards (No. 228 [2006])**
- 2 The Police Strictly Striking the Illegal Online Gambling During the World Cup**
- 3 The Development of Intellectual Property Rights in China During the 11<sup>th</sup> Five-Year (2006-2010) Plan (Luncheon Minute)**

## **The Circular of Ministry of Health of the People's Republic of China Regarding Printing and Distributing the Administrative Measures of Sanitary Standards (No. 228 [2006])**

卫生部关于印发《卫生标准管理办法》的通知(卫政法发〔2006〕228号)

**Issued By** Ministry of Health  
**Subject** Sanitary Standards  
**Promulgated on** July 13<sup>th</sup> 2006  
**Effective from** August 1<sup>st</sup> 2006  
**Source** [www.moh.gov.cn](http://www.moh.gov.cn)

The Administrative Measures of Sanitary Standards (the "Measures") have been promulgated in order to improve working efficiencies, to ensure the quality of sanitary standards and to encourage the implementation of sanitary standards. The terms of "sanitary standard" mean all kinds of technical provisions concerning human health and medical service which are based on the research and practice of preventive medicine and clinic medicine and have the purposes of protecting human health and executing related national laws and regulations and sanitary policies.

The Measures encourage citizens, legal entities and other organizations to actively participate in the work of sanitary standards. These persons and entities are encouraged to provide proposals on formulating or amending the current sanitary standards. According to the Measures, the sanitary standards shall be enacted for the following items: food; cosmetic products; drinking water; disinfection products; sanitary protection products concerning drinking water; all products concerning health and all products which have poisonous and harmful substances; occupational activities and technical requirements on protection and cure of occupational diseases; requirements of sanitary technologies on living circumstances, working premises and other public premises; evaluation on sanitation and health; technical requirements of sanitary information; technical requirements concerning protection against diseases; sanitary requirements on blood giving, gathering and using; sanitary requirements on blood safety; checking and testing methods of sanitary facilities; and other requirements of sanitary technologies concerning health care and protection.

The sanitary standards are to be divided into state standards, local standards and industrial standards. The sanitary standards also shall be divided into compulsory standards and recommended standards. The Measures replace the previous administrative measures which were promulgated in 1981.

## **The Police Strictly Striking the Illegal Online Gambling During the World Cup**

世界杯期间警方严厉打击网络赌球违法犯罪活动

Subject           **Online Gambling**  
Source            [www.bjgaj.gov.cn](http://www.bjgaj.gov.cn)  
                      <http://news.xinhuanet.com>

According to the Beijing Municipality Public Security Bureau, from 1 July 2006, four online gambling groups and 24 suspects were arrested by the police during the 2006 Football World Cup. Furthermore, according to the Ministry of Public Security, a total of 546,158 suspects were captured due to their involvement in illegal online gambling from January to May 2006. In a single case, more than one hundred million RMB appears to have been betted into illegal online gambling on football within a month.

According to the police, the gambling companies are always the winner due to asymmetric information and technical control. It is believed that the gambling companies are making illegal profits by controlling the whole game. During the World Cup, the illegal online gambling was expanded extremely and therefore attracted the attention from the competent authorities including the police.

In line with the latest amendment of the PRC Criminal Law, whoever, for the purpose of profit, assembles a crowd to engage in gambling or makes gambling his/her profession shall be sentenced to fixed-term imprisonment of no more than 3 years and shall be fined in addition. Where the person operates a gambling company and where the circumstances are especially serious, a fixed-term imprisonment of no less than 3 years and no more than 10 years shall be applied. In addition, a fine shall be applied too.

## **The Development of Intellectual Property Rights in China During the 11th Five-Year (2006-2010) Plan (Luncheon Minute)**

中国“十一五”(2006—2010)计划期间的知识产权发展(午餐会纪要)

On 6 July, the National Development and Reform Commission of China organized a conference with the subject of the development of intellectual property in China during the 11th Five-Year Plan.

The official plan as introduced by the Chinese government is a very comprehensive blueprint covering nearly all aspects of the whole intellectual property system. Although the plan is very general, it also contains some specific information. According to the plan,

the Chinese government will make efforts mainly in eleven aspects to improve the whole intellectual property system of China.

1 Working out and actively implementing the intellectual property strategy. The Chinese government will issue a general plan for promoting the development of the intellectual property system.

2 Improving the legislation by promulgating new laws as well as amending the old ones. The significant laws and regulations to be promulgated include the Regulation on Occupational Invention, the Regulation on Protection of Folk Literature and Artistic Works, the Measures of Remuneration for Television Works, the Regulation on the Protection of Geographic Indications, etc. In addition, the further criteria for determining infringement will also be promulgated. The plan also puts emphasis on the practicability of the legislation of China. The revision of the Patent Law, for the third time since its enactment, is under discussion. A draft will probably be submitted for approval in 2007.

3 Strengthening the enforcement of the laws and regulations. In addition to the determination of the government to continue fighting against the infringement, through the efforts of administrative authorities and judicial authorities, the protection of intellectual property rights related to World Exhibition, Olympic Games and agriculture were specifically mentioned.

4 Improving the administration system of the intellectual property rights. The administration system will be strengthened by improving the administration methods, strengthening the cooperation among relevant authorities and promoting the information sharing between them. The plan also stresses the importance of research of the legal systems of countries with which China has trading relations.

5 Strengthening the intellectual property rights in entities, aimed at improving the independent innovation capability of the entity.

6 Improving the examination and approval quality. The plan also set forth specific targets for shortening the time period for examination, that is, up to the end of the 11th Five-Year Plan, the time period for examination of invention patent applications shall be reduced to 6 months. An examination of applied models and industrial designs is to be reduced to 4 months, and the examination of the invalidation, revocation appeal will be reduced to 12 months. The time period for examination of trademark registration applications will also be shortened substantially.

7 Strengthening the education on intellectual property right in the society. The education shall be aimed at improving the awareness of respecting other's intellectual property rights, on the one hand, and of encouraging innovation, on the other hand.

8 Establishing information systems. The plan promises to establish electronic examination and approval systems and electronic search systems.

9 Promoting the setting up of agencies. The measures on administration of the agencies will be promulgated, and the administration of the activities of the agencies will be strengthened. The development of agencies devoted to providing services of evaluation and transfer of intellectual property rights shall be promoted.

10 Foreign affairs in the aspect of intellectual property right will be strengthened. The plan puts forward a "two changes" slogan: China shall be changed from a passive receiver to an active participant and from a passive adapter to an active promoter, of the international rules on intellectual property rights.

11 Strengthening the setting up of administration organs. In this regard, the plan focuses on the improvement of the competence and the administration level of the administration organs.

© Wenger & Vieli, Beijing, 15 July 2006

Check the China Legal Briefing archives on:

<http://www.wengerlaw.ch/EN/publications/1/index.asp>

Obtain your personal subscription from: [china@wengerlaw.ch](mailto:china@wengerlaw.ch)