



NCAC

WIPO



**STUDY ON THE IMPACT OF ENHANCED COPYRIGHT
PROTECTION ON THE DEVELOPMENT OF THE TEXTILE
MARKET IN NANTONG, CHINA**

World Intellectual Property Organization
National Copyright Administration of the People's Republic of China



Introduction

Introduci
or

Nantong is a coastal city in China's Jiangsu Province. It is located on the north side of the Yangtze River's estuary facing Shanghai. The Nantong region is an important cotton producing area in China and the city is known as "the Hometown of Textiles." Nantong's two major textile markets, Zhihao market and Dieshiqiao market are world leaders in the production and export of home textile products.

In August 1996, a Taiwan-based textile firm, Xiangsheng, entered the market in Nantong with numerous printing patterns protected under copyright

A Bird's Eye View of the Nantong Home Textile City of China (Provided by Zhihao Market Copyright office)



law. Textile producers in Nantong soon began to copy the patterns and the Taiwanese filed copyright infringement complaints with the newly established Copyright Office of Nantong Municipal Copyright Administration. The National Copyright Administration of the People's Republic of China (NCAC) subsequently established that infringements of patterns of printed fabric had taken place. The Nantong Municipal Government then initiated a variety of actions to publicize copyright laws and to improve the administrative and judicial enforcement of those laws.

Subsequently the policies adopted in the Nantong home textile markets came to the attention of the World Intellectual Property Organization (“WIPO”) in Geneva. As a result of these contacts, an agreement was signed in March 2009 between the NCAC and WIPO. This agreement, entitled a Cooperation Agreement on the Study on the Impact of Enhanced Copyright Protection on the Development of the Textile Market in Nantong, Dieshiqiao International Home Textile City (Provided by Sanxing Town Coppright office)



China was designed to support the development of a written report on the Nantong experiences and policies. The Investigation Report is the product of that Agreement.

The Investigation Report has been prepared by staff of the Jiangsu Provincial Copyright Bureau and of the Nantong Municipal Copyright Bureau. These researchers conducted a thorough assessment of the many issues that are relevant to understanding the Nantong experience. The Jiangsu and Nantong research team also followed the guidance of some Chinese and foreign experts on issues relating to intellectual property rights.

This report attempts to document the strongly positive role that enhanced copyright protection has played in the development of the Nantong home textile markets. The researchers conducted in-depth analysis of the establishment of the Nantong copyright system and its improvement over time. The Investigation Report also includes quantitative trends and case studies in order to document the successful practices of the Nantong home textile markets.

The Nantong copyright protection system has evolved over time and now incorporates complementary legal remedies. These include civil protection, administrative protection and judicial intervention remedies. The Investigation Report provides a comprehensive summary of these remedies. In particular, the Investigation Report shows how China's existing laws and regulations can be adapted to combat piracy, maintain market order, regulate production and business activities and stimulate product innovation. The researchers hope that the experiences presented in this report will provide both inspiration to and a useful example for other regions of China and for other countries and regions across the world.

Overview of the Report

The Investigation Report consists of four parts.

Part One of the Report, describes the Investigation Project itself. A

coordination Committee was established, chaired by NCAC and by the Jiangsu Provincial Copyright Bureau, subsequently a working group and an expert group, were established to implement the project. Members of the coordination committee included officials in charge of the national and provincial copyright administrative departments, leaders of Nantong Municipal Party Committee and People's Government and heads of relevant departments. The working group carried out specific investigation work and was responsible for project implementation under the leadership of the Coordinating Committee. The experts group was responsible for reviewing and examining the overall progress and structure of the report, methodology and specific expertise, and for drafting recommendations.

Part Two of the Report describes the Nantong home textile market in detail. In 2008, the industry's total output value reached RMB 92.5 billion. This value represented 17.92% of Nantong City's total industrial output value in the same year. Other statistical trends are reported in tabular form in this section of the Investigation Report. Part Two of the Investigation Report also includes descriptions of the various product categories and brands that are sold in the Nantong home textile markets. In Nantong, there are nearly 10,000 textile products for sale in various textures and forms. These products can be classified according to the texture of the fabric, the process design, the utility function, the pattern, style, etc home textile industry. Since the Copyright Law enacted in 1991 explicitly states that art works shall be protected, designers can now rely on strong legal protection of their works against infringement.

Part Three of the Investigation Report focuses on copyright protection policies that were adopted over time for the Nantong market. Beginning in the early 1980s, Dieshiqiao village and Zhihao village jointly built a market where grey cloth and embroidery were the primary products on sale. However, the products sold in these markets generally consisted of single-color cloth and printed fabric in only a few varieties. By August 1996,

however, with the entry of Taiwan-based Xiangsheng, new textile products and product varieties came to Nantong. However, because of widespread infringement of these products, the Taiwan businessmen did not succeed and they ultimately asked for help from the local copyright office. These contacts led, in turn to inquiries and interest from the NCAC, the Jiangsu Provincial Copyright Bureau, the Party Committee and the government of Nantong City. The Nantong Copyright Office was designated as the leading agency to coordinate the investigation and enforcement efforts made by the Public Security Bureau and the Industry Commerce Administration Bureau to address these problems.

In 1997, the first village-level copyright administrative office in China was created in Zhihao market under the support of Nantong Municipal Government. The copyright protection then available in the Zhihao market clearly contributed to rapid growth and development in this market. The growth in the Zhihao market in turn led the adjacent town of Sanxing to seek comparable improvements in copyright protection for its own products. This effort led to the establishment of the Sanxing Town Copyright Administrative Office in Dieshiqiao Market.

In both markets, the major functions of the Copyright Administration Offices include legal publicity and education, a works registration service and mediation of copyright disputes. In the past 12 years, 85% of cases mediated by the two copyright offices have been successful with RMB 9.94 million paid as compensation for copyright owners' losses and RMB 1.08 billion of losses recovered.

Part Three of the Investigation Report highlights copyright-related activities of the Intermediate People's Court of Nantong City. The Court established the Intellectual Property Trial Chamber in October 2001, in order to intervene in copyright protection cases in the home textile market via judicial proceedings. In 2008, the Tongzhou People's Court was delegated to set up the Intellectual Property Circuit Court, the first one in China, in the two

home textile markets to try intellectual property disputes there. The experience of judicial copyright protection of home textile products gained by the courts in Nantong is documented in this Part of the Investigation Report.

Part Four of the Investigation Report provides examples of how enhanced copyright protection and enforcement helped strengthen the Nantong markets and improve the degree of innovation that textile producers can bring to their products. As the home textile industry in Nantong grew rapidly, textile producers in Nantong would more easily expand and upgrade the upstream and downstream supporting industries that are essential to produce textiles efficiently. Many professional design companies, for example, have been established in and around the market, attracting numerous designers to make careers in the Nantong region. The associated industrial



Location plan of the two home textile markets in Yangtze River delta

clusters that support the home textile industry in Nantong include textile machine manufacturing, printing and packaging, dyeing and product design.

Part Four of the Investigation Report documents the degree to which Nantong textile producers and designers innovate in the creation and manufacture of new and products. In Nantong, new products and new patterns constantly emerge. Over time, the level and quality of home textile products from Nantong have been elevated significantly. As set forth in the Report, a number of Chinese “famous brands” have also been created by firms within the Nantong home textile industry.

Part *ONE*

The Investigation Project

► 1.1 Background

Following the adoption of the Chinese policy of reforms and opening up in recent years, the home textiles trade of Nantong City, Jiangsu Province, long known as the “Hometown of Textile,” has experienced thriving development. In particular, Zhihao market and Dieshiqiao market, the two large home textile markets located in Chuanjiang town and Sanxing town, have become major centers for both domestic home textile trade and exports to other parts of the world.

In the 1980s and 1990s, these markets had been less successful. They were plagued by disorderly management, vicious competition, frequent infringement and redundant development of low-level textile products. Against such a backdrop, the local government chose to intervene in the management of these markets and to introduce a new copyright protection system that would focus on copyright infringement in textiles. The local government established new civil, administrative and judicial protection reforms. As a result of these efforts, the two markets flourished. Importantly, new textile supply and distribution chains also formed in and around the Nantong region.

By reviewing and analyzing this history, one can see how the intellectual property strategy adopted in Nantong acted to foster the establishment of an innovation-oriented market, province and country for the development of both

copyright-protected products and other supporting products and services. One can also see the benefits that the strategy has brought to the local economy. It is helpful for the state and for other regions and departments to consider the implementation of active copyright protection policies in order to promote the development of their own industries. In this way, the benefits that copyright protection of the Nantong home textile industry has brought to the textile industry and to the local economy can be extended to other regions and other products.

On March 26, 2009, NCAC and WIPO jointly held an “Expert Meeting to launch this pilot Investigation Project of the World Intellectual Property Organization on the Impact of Enhanced Copyright Protection on the Development of the Textile Markets in Nantong, China and a Cooperation Agreement was signed. The Signing Ceremony was held in Nantong City, Jiangsu Province. Mr. Wang Ziqiang, Director General of the Copyright



2008年6月世界知识产权组织创意产业司司长根切夫(左一)和美国经济学家塞维克(右一)在南通市副市长杨展里(右二)陪同下考察南通两大家纺市场

Management Division of NCAC; Mr. Dimiter Gantchev, Acting Director of the Creative Industries Division of WIPO; Mr. Stephen Siwek, Principal of the firm Economists Incorporated (Washington D.C.) and foreign expert for this project; Mr. Wangqian, Professor of School of Intellectual Property Rights, East China University of Political Science and Law and Chinese expert of the project and the relevant officials of NCAC, Jiangsu Provincial Copyright Bureau and Nantong municipal government all attended the meeting and signing ceremony. Mr. Dimiter Gantchev and Mr. Wang Ziqiang, on behalf WIPO and NCAC respectively, signed the Cooperation Agreement.

Prior to the Signing of the Agreement, Ms. Wang Binying, Assistant Director-General of WIPO and Mr. Gantchev conducted the first investigation of the copyright protection policies of the Nantong home textile markets in May 2007. After discussions with local government officials, management departments and business owners, and through on-the-spot investigations of the two home textile markets, they identified the copyright protection policies of Nantong home textile market as a pilot case study. On this basis, in June 2008 Ms Wang Binying and Mr. Gantchev, jointly with Mr. Siwek, the foreign expert, conducted another comprehensive and in-depth inspection on the copyright protection policies of the Nantong home textile markets. They confirmed the Nantong experience as an outstanding pilot case for all-round investigation and study.

Following the specific suggestions of the WIPO Creative Industries Division and after consultations, NCAC authorized the Jiangsu Provincial Copyright Bureau and the Nantong Municipal Copyright Bureau to prepare an outline on the investigation project and to provide an English translation of the document. In March 2009, after NCAC and WIPO representatives had officially signed the project agreement, the General Administration of Press and Publication Administration of PRC (National Copyright Administration of PRC) signed the project contract and task document with the Jiangsu Provincial Copyright Bureau and the Nantong Municipal Copyright Bureau

and the project was officially launched.

This project is the first “micro-investigation” (i.e. one industry in one region of one country) in this field, conducted by WIPO. It involved an investigation over an eight-month period. WIPO financially supported the Project while the NCAC provided the main part of the funding to support the investigation.

▶ 1.2 Goals of the Project

In line with the requirements of WIPO and NCAC, this investigation has proceeded in a structured way. The research team has analyzed the emerging copyright protection system and enforcement mechanisms used in the Nantong home textile market. The development of this system has reflected the joint efforts of national, provincial, municipal and even the town-level copyright protection organizations. The identification of the economic and social benefits that flow from the Nantong system was also an important goal for the research. These benefits include product quality improvement, acceleration in efforts to upgrade the home textile industry, faster growth in the local economy and increased prosperity for the Nantong region as a whole.

From the beginning of the investigation, it was hoped that the investigation ultimately would document what has been achieved in Nantong. The researchers sought to sum up the experiences and practices used in Nantong and to share them with other parts of China and with other countries and regions of the world. The researchers believed that the successful experiences in Nantong could be applied not only in other parts of China but also in other developing countries. In particular, the Nantong experience could well benefit other developing countries who wish to improve their own copyright protection systems and at the same time to promote the domestic development of those industries that rely heavily on sound copyright protection.

Through case studies of the two major markets, the investigation was able to observe the significant role played by IPR protection in developing and expanding a basic industry like textiles. For example, strong and efficient copyright protection promotes and protects the intellectual fruits of innovation. Specifically, it provides strong incentives to improve the level and grade of home textile products and to enhance the products' quality. Effective copyright protection also facilitates the formation of an orderly market, promotes the rapid development of the local economy, accelerates the emergence of local upstream supply and downstream distribution industries and greatly increases social productivity and well being.

In the two major markets the copyright protection system combines civil, administrative and judicial methods for adjudicating and resolving copyright disputes. To protect the copyrights that local businesses own in printed cloth and floral pattern designs, Nantong established in succession town-level copyright management organizations in the Zhihao market in Tongzhou county and in the Dieshiqiao market in Haimen county. In addition, the Nantong Municipal Intermediate People's Court authorized the Tongzhou Municipal Court to set up China's first circuit court for IPR trials, responsible for hearing civil infringement cases in the two markets.

The establishment of these anti-piracy institutions has ensured the healthy development of the home textile industry in Nantong and it has reduced the business risks faced by local textile producers and pattern designers. The two markets now attract thousands of talented designers to start up businesses in this richly-endowed region. The novel home textiles products that these designers and producers develop are fashion leaders and they meet the needs of the consuming public in numerous countries and regions.

The home textile markets in Nantong have managed to prosper even during the recent period of financial turmoil in world markets. Many business owners continued to pursue lucrative home textile business opportunities at

home and abroad. These companies included: Goldsun Company, Luolai Company, Lansiyu Company, Zhuotai Company, Mingchao Company and Ziyangjiari Company. Other companies, such as Bestwish Company, whose sales had flattened in the first half of 2008, resumed upward growth in the second half of the year. A number of these firms also became group companies, characterized by the integrated operation of product development, design, processing and marketing. All of them have their own R&D design teams that not only research and develop new varieties of fabric but also create new floral patterns that reflect the latest in international fashion colors. Even during the slowdown, textile firms in the two markets accurately identified potentially large business opportunities and they adjusted their marketing strategies accordingly. Because these companies are flexible in their product development and sales practices, they were able to expand even during a time of low demand.

NCAC has attached great importance to Nantong's copyright protection practice and it has convened a number of meetings to popularize the Nantong experience. Other provinces such as Zhejiang, Guangdong, Hunan, and Jiangxi have also dispatched officers to conduct investigations and to study the positive Nantong experience.

► 1.3 The Investigation Report

The research findings that have emerged from the Investigation project must be carefully documented if they are to be of use to other regions and countries. For this reason, the research team has prepared a comprehensive review and analysis of their efforts and findings. The analysis and findings of the research team are presented in this Investigation report. The Report addresses the following topics.

First, the Report provides a general introduction to the Nantong home textile industry. It also describes the influence of various historical, cultural, and geographical advantages that are present in the Nantong region. The

Report also describes economic and legal factors relating specifically to the formation of Nantong home textile market.

Second, the Report provides a review of the history of copyright protection in the Nantong home textile markets. This review includes an analysis of the market's copyright protection system and operations and the role of administrative and judicial oversight. The review also describes particular forms of intellectual property protection including patents, trademarks and trade secrets protection and assesses their roles in the Nantong markets.

Third, the Report explores the relationship between copyright protection and the economic development of Nantong home textile market. In Nantong the copyright protection system evolved over time and it had divergent effects on textile markets in different periods. As the Nantong markets developed, the industrial chain formed by upstream and downstream linkages to other industries grew more important. So too did the need for comprehensive copyright protection and IPR protection.

Finally, the report represents a first study, supported by WIPO, which deals with research on the impact of copyright protection on a specific market and region, while most of the studies thus far had focused on macroeconomic aspects.

► 1.4 Research Methods

It is no simple task to recount the birth, development, and future prospects of Nantong's modern textile industry and to describe fully how copyright protection boosted local economic growth. For this reason, the investigation required a great deal of hard work to gather and compile the relevant statistical data. In order to complete this task effectively and efficiently, the project group developed a detailed investigation plan to coordinate all arrangements. During the investigation, the researchers attended to the focus and theme of the project and they closely cooperated

with each other in accordance with each team member's responsibilities.

First, the team analyzed and organized data over a multi-year period. According to the investigation outline that had been accepted by both Chinese and foreign experts and by NCAC, the project group collected a variety of documents, data and publicity materials over the years.

Second, the research team conducted comprehensive internet searches on a number of topics. By utilizing the internet, the project group collected information about the historical origin, the natural environment and the cultural continuity of Nantong. The team also discovered data on the textile industry's formation and early development, the background and formation of the Nantong markets. The team integrated this information into various topics addressed in the Investigative Report.

Third, the team prepared different forms for sample survey and data extraction. In coordination with local authorities, the project group contacted relevant departments at all levels to respond to the forms and to submit all responses within a definite time. These departments included the copyright management organizations of the two major markets, various business

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administration, taxation and statistics departments, trade associations, business owners, and logistics and urban planning agencies in the region.

Fourth, the project group communicated face to face with officers of local towns and villages, and with representatives from administrative departments, key textile enterprises and design and logistics departments. Following the investigation outline, the researchers explored various issues, obtained presentations and received introductions to gather additional information as needed.

Fifth, research team members made individual visits to certain enterprises and design units who were unwilling to release sensitive business information in public. Sensitive topics included the enterprises' operation and management practices, marketing strategy, product composition, and the economic benefits that derive from copyright protection or from other areas of IPR. Certain enterprises also resisted public revelation of their growth in sales and profit over the years and of their future development strategy. The group visited representative departments and chief personnel at well-known brand enterprises in the two major markets. Team members also visited small and medium-sized enterprises, design studios, law offices, the People's Courts and the industry associations.

Sixth, the project group visited enterprises' product showrooms and design studios' storerooms. They also collected product photographs which would later be used in the Investigative report to document the physical appearance of the textile products that are sold in Nantong. Generally, the showroom of a home textile company, especially when exports products are involved, will reject any form of photography. The security measures taken to prevent losses caused by the leakage of information are generally quite strict. Nevertheless, once the businesses understood the purpose of the project, they gave full support to the group. The group took 260 pictures in all.

Seventh, the research team also conducted an investigation in Zhejiang Province, where they received the full support of Zhejiang Provincial

Copyright Bureau, the Shaoxing County Chamber of Commerce, and the Print Fabric Industry Association in Keqiao town's China Textile City. Thanks to their help, the research team could draw comparison between copyright protection activities in Nantong and in Keqiao. At the same time, the two provinces gained a better understanding of each others' anti-piracy work. The colleagues of the Copyright Office of Keqiao town's Print Fabric Industry Association provided a variety of materials regarding the history and activities of the Association since its establishment.

Eighth, the group began to compose the draft report in accord with the division of responsibilities previously implemented. The project group analyzed, studied and sorted out materials ranging from general data and information to the pictures as well as symposiums and visit outcomes. They divided responsibilities among different persons according to the project outline. Although different authors were responsible for different sub-topics, the final draft was prepared under collective discussion and repeated revision.

► 1.5 The Project Team

Jiangsu Provincial People's Government, Nantong Municipal People's Government and the relevant administrative departments attached great importance to this investigation and for this special purpose, they organized the Coordinating Committee with Mr. Wang Ziqiang, Director General of the Copyright Management Division of NCAC and Ms. Xu Yiyang, Director General of Jiangsu Provincial Copyright Bureau as presidents. The Committee, composed of the persons in charge of the national and provincial copyright administrative departments, the officials of Nantong Municipal Party Committee and People's Government and the heads of the relevant departments, are responsible for the overall coordination and content checking of the investigation work.

The working group and the expert group both fall under the responsibility of the Coordinating Committee. The working group consisted of relevant

persons in charge from NCAC, the Jiangsu provincial Copyright Bureau and the Nantong copyright Bureau and the Nantong Municipal and town governments. These individuals carried out specific investigation tasks and were responsible for project implementation under the leadership of the Coordinating Committee.

The expert group included Professor Li Mingde and Professor Wang Qian. Professor Li, a Senior Fellow of Institute of Intellectual Property Rights of Chinese Academy of Social Sciences, is a world-renowned intellectual property expert. Professor Wang, from the School of Intellectual Property Rights of East China University of Political Science and Law, is China's youngest doctoral supervisor in the major of intellectual property rights. As consultants in intellectual property law, they provide useful guidance for the investigation work.

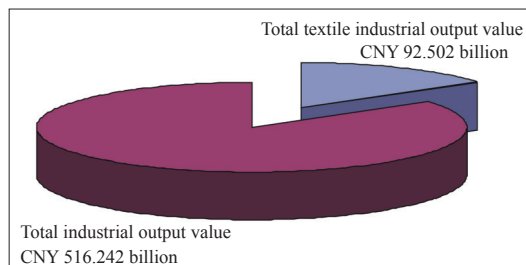
Part *TWO*

The Nantong Home Textile Industry

► 2.1 Introduction

Nantong is a coastal prefecture-level city in China's Jiangsu Province, located on the north side of the Yangtze River's estuary. It faces Shanghai Municipality and Suzhou city of Jiangsu Province across the River. As an important cotton producing area of China, it is one of the origins of China's modern national industry and is known as "the Hometown of Textile", where the light and textile industry enjoys a history of more than 100 years and has become a "Mother Industry" and a pillar industry. The total output value of Nantong's textile industry reached RMB 92.5 billion in 2008, accounting for 17.92% of the City's total industrial output value.

Chart I: pie-chart of total output value of Textile Industry vs. total industrial output value of Nantong city in 2008



Since the middle of the 1990s, Nantong's home textile industry has developed rapidly. The industry is especially well-known for the production and export of home textile products. As noted above, the two major markets in the Nantong region are the Zhihao market ("Nantong Home Textile City of China") of Chuanjing town, on the boundary between Tongzhou city (present Tongzhou District of Nantong City) and Haimen city, and Dieshiqiao market ("Dieshiqiao International Home Textile City"). These two areas are among the world's largest home textile markets. They are the industrial base and distributing centre for R&D, manufacturing, processing, logistics, sale and export of home textile fabrics & products.

Currently, there are two industrial parks, two logistic centers and a specialized home textile trading market within the overall area of 1.5 million square meters. This area is composed of Fabrics City, Embroidery City, Home Textile City, Boutique Building, Brands Plaza , Trading Centre and Design Centre. These facilities contain over 10,000 thousand berths and over 2,000 shop fronts. There are more than 5,000 home textile enterprises around the market, including 418 enterprises "above designated size."^① The area also contains more than 20,000 family workshops, and processing sites spread over ten towns in the three surrounding counties. More than 200,000 people are directly employed in this industry.

The Nantong home textile markets are important not only for domestic home textile production in China. The two markets also make extensive sales to international home textile buyers in more than 100 countries of the world. During the 10 years from 1999 to 2008, the export value of all Nantong textile products grew from USD 817.89 million to USD 4.077 billion, with an average annual growth rate of 17.4% (See Chart II). Within this total, the

① Enterprises above designated size refer to the enterprise with annual sales revenue of above CNY 5 million.



export value of home textile products increased from USD 98.75 million in 1999 to USD 1.007 billion in 2008 (See Chart II). This trend reflected an average annual growth rate of 26.14%.

Chart II: Statistics Table of Export Value of Textiles & Garments and Home Textile Products of Nantong City from 1999 to 2008

Unit: USD 10,000

Year	Textiles & Garments Total Exports	Garments Exports	Fabrics and Accessory Exports	Home Textiles Exports
1999	81789	57287	14627	9875
2000	100908	71753	16253	12902
2001	105378	73821	15800	15757
2002	116990	82051	16558	18381
2003	144270	99070	18827	26373
2004	189380	126948	23574	38858
2005	247310	159913	33367	54030
2006	290813	184854	38354	67605
2007	347635	215810	44782	87643
2008	407700	250200	56800	100700

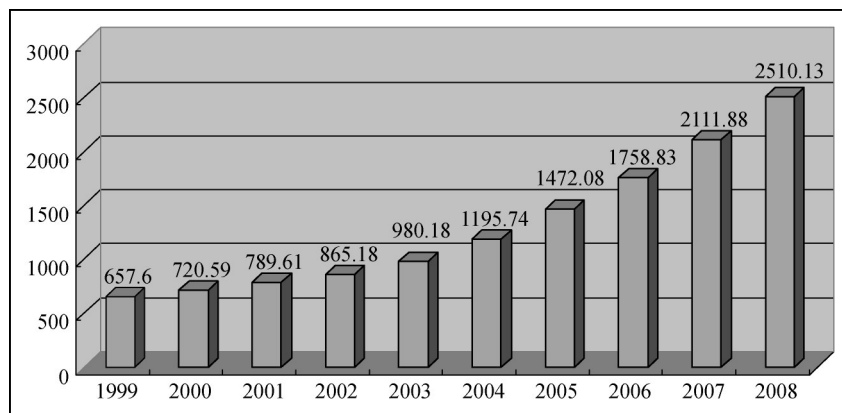
In 2008, the output value of 418 textile enterprises above designated size in the two major markets reached RMB 29.75 billion, accounting for 32.16% of gross output value of the total textile industry of Nantong City. At the same time, the popularity and reputation of Nantong home textile products have improved year by year. As of 2009, the Nantong textile industry owned three “Chinese Famous Brands”, three “Chinese Famous Trademarks”, 22 Jiangsu “Provincial Famous Brands,” 11 “National Products Exempted

From Inspection.”^① A Nantong company is also the only enterprise that is a public listed textile company on the Chinese Mainland.

Zhihao market has been consecutively rated as an “AA-grade Credit Enterprise” since 1994, and a “Spiritually Advanced Market of Jiangsu Province” since 1995, Zhihao market was also designated as a “National Copyright Protection Model Unit” by NCAC in 2005.

Sanxing town of Haimen City has been rated as “China’s Famous Textile Town” by China’s Textile Industry Association. In addition, Dishiqiao

Chart III: Histogram of Nantong City’s GDP from 1999 to 2008 (Unit: RMB 100 Million)



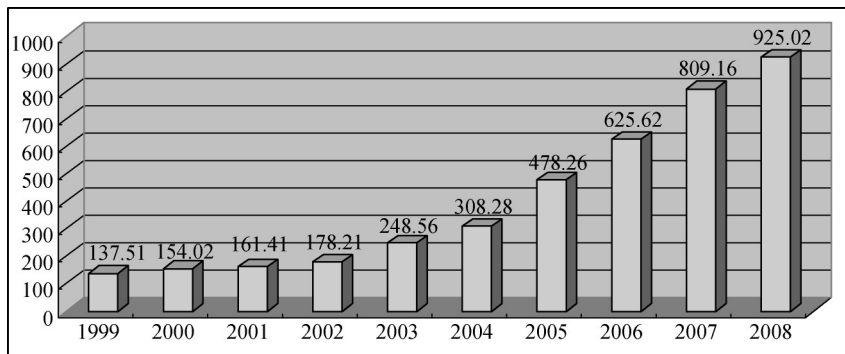
② See Annex I to get the name list of all the famous brands and enterprises.



market was awarded the honorary title of “China’s Best” in home textile embroidery by the Development Research Center of the State Council. Since 1996, more than 300^① leaders above provincial and ministerial level have visited and inspected the two markets.

The importance of the textile industry to the Nantong region can also be seen in Charts III and IV below. As shown in Chart IV, the Industrial Output of the Nantong City Textile industry was 92.5 billion RMB in 2008.

Chart IV: Histogram of Nantong City’s Textile Industrial Output Value from 1999 to 2008 (Unit: RMB 100 Million)



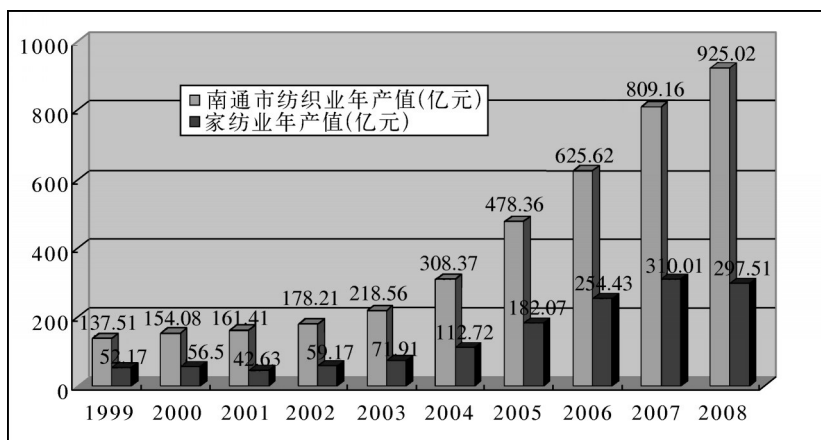
Note that the statistics reported for the Nantong textile industry are limited to enterprises “above designated size” i.e. (with annual sales revenue above RMB 5 million).

^① On August 8, 2009, Chinese Premier Wen Jiabao came to the market for inspection. He visited the exhibition of achievements in copyright protection with great interest and heard the work report on how local people promoted the development of home textile industry through strengthening copyright protection.

Chart V: Histogram of Nantong City's Textile and Home Textile Industrial Output Values from 1999 to 2008

Annual production value of Nantong Textile industry (RMB 100 million)

Annual production value of home textile industry (RMB 100 million)



1. The output value from 1999—2008 is the total value of enterprises above the designated size of Nantong City at current price.

2. The annual output value of home textile industry (including 418 enterprises above designated size) is mainly measured with the textiles of Tongzhou and Haimen as a base.

▶ 2.2 Early History of Textile Production in Nantong

At the end of the 19th century, Zhang Jian (1853-1926) founded the Dasheng Spinning Mill, an event that marked the beginning of the power machinery textile industry in Nantong. Zhang was a Number One Scholar living near the end of Qing Dynasty. A native of Nantong, he was also the most well-known industrialist in modern Chinese history. With the emergence of the Dasheng Group Co. Ltd., Nantong became one of the birthplaces of China's national textile industry.

By 1949, there were 150,000 power spindles and more than 1500 looms in Nantong's textile industry. Nevertheless, handicraft textiles still accounted for a large proportion of all textiles produced. Simple cotton yarn and raw



cloth continued to be the main products that the industry produced. In the late 1950s, firms engaged in textile dyeing and printing, knitting, wool spinning, silk reeling, yarn-dyeing, and in the manufacture of textile machinery and equipment were all established in the region. By the 1970s, chemical fiber products were also developed.

Beginning in the 1980s, the textile industry in Nantong made great efforts to develop high-tech textile products and to expand the categories of textile products that could be manufactured in the region. These new products included the “five kinds of fabrics,” namely, chemical fiber fabrics, cotton fabrics, woolen fabrics, silk fabrics and linen fabrics. Producers also increased the types of cloth that could be produced with different varieties ranging from garment cloth and decorative cloth to industrial cloth. Nantong textiles began to gain acceptance in both domestic and overseas markets.

In this environment and with the adoption of the Chinese policy of reform, opening up and introducing market economy principles, the home textile market emerged and began to grow. The Zhihao and Dieshiqiao villages located southeast of and about 20 kilometers away from the urban boundaries of Nantong City began as a cloth and bedclothes fair that was self-organized by the local farmers. The simple reproduction of traditional textile products and the farmers’ reliance on voluntary transactions helped the trading fair expand over time. However, individual transactions of raw cloth and bedclothes were often investigated and punished by the business administrative departments of the two regions. But Zhihao village (present Chuanjiang town, Tongzhou District) and Dieshiqiao village, (Sanxing town, Haimen City) then separated by a river, were separately administered by Tongzhou City and by Haimen City respectively. Because of these multiple jurisdictions, it was easy for the farmers to move between the two markets, they could often avoid government crackdowns.

In the early days, various problems arose in the markets. The stalls were set in the open air with no management oversight, resulting in disorderly and

confused operations. Disputes and contradictions were frequently observed and theft of original floral and other patterns was rampant. The concept of intellectual property rights was not widely recognized or observed in the two markets.

By the early 1990s, the local villagers had constructed simply-equipped trading tents in order to improve trading conditions. However, Zhihao village and Dieshiqiao village were still under the separate jurisdictions of the two administrative divisions of Tongzhou and Haimen. In order to better organize these markets, Nantong Municipal People's Government put forward a market planning program entitled "Putting Industries under Markets." According to this plan, the two markets were to follow a natural division of work. Under the plan, Zhihao market was to deal primarily in printed fabrics while Dieshiqiao market was to specialize in products for bedrooms and thus a primary specialization was formed.

The two cities of Tongzhou and Haimen and the two affiliated towns of Chuangang and Sanxing also began to coordinate in the planning of investments to develop and establish the home textile markets. In addition, the business administrative, taxation and public security departments established their own market management offices in the two towns.

Now, after more than 20 years, family-style manual workshops have been transformed into modern home textiles enterprise clusters. The original fair, consisting of open-air stalls and simple tents, has gradually evolved into the "Nantong Home Textile City of China" and the "Dieshiqiao International Home Textile City." In 2008, the two home textile markets, with over 8,000 business households, realized a market turnover of RMB 40.1 billion or about half of the annual output value of the Nantong home textile industry in total. The flourishing of the local home textile industry has also stimulated growth in other local industries including construction,



transportation and logistics, design, R&D, finance and insurance.

The People's Governments of Chuanjiang Town and Sanxing Town have now carried out the expansion and reconstruction of the two major markets for the sixth time in succession. They have embarked on a new round of construction which will include an IPR trading center, a top textiles exhibition center, an expo center, a R&D center, a five-star hotel, a passenger transport system and a logistics and warehousing center. The two markets are on the rise and are showcasing a positive effect of agglomeration and scale across the country. The two markets have undergone significant transformation-from non-regulated environment to efficient law enforcement. They gradually built a complete industrial chain and formed a cluster, equipped with R&D, production, circulation and marketing. Productivity, as well as the ability to deal with market turbulence have been improved as the market did not suffer from economic recession in recent years. The economic, social and cultural prosperity of the local population have also significantly improved.

► 2.3 Product Categories and Brands

In industry parlance, textiles to be used by families are called home textiles. These products are known as interior decoration textiles, textile accessories, and fabrics. With a wide range of categories, home textiles have nearly 10,000 distinct products in various textures and forms. In terms of functions, there are mainly eight categories:

These are i) artistic printed calicos or dyed fabrics; ii) furniture covers; iii) hanging curtains; iv) decorative bedding fabrics; v) decorative wall fabrics; vi) hanging carpeting; vii) textiles in washrooms; viii) decorative textile for dining rooms or kitchens (See Photos I through VII).



Photo I: Artistic printed calicos or dyed fabrics (printed calicos)



Photo II: Furniture covers (slipcovers) See Appendix I.



Photo III: Artistic printed calicos or dyed fabrics (jacquards)



Photo IV: Artistic printed calicos or dyed fabrics (pure silk jacquards)



Photo V: Textiles in washrooms (tissue boxes)



Photo VI: Decorative textiles for dining rooms or kitchens



Photo VII: Woolen blankets



Photo VIII: Pillows of various kinds

Home textile products are also classifiable according to other criteria, such as process design, process, texture of fabrics, yarn count and density of weft, combination of decorative patterns, color matching, style modeling, regional style, seasonal series and practicality. Below is a brief introduction to the home textile fabrics.

Textile fabric products can be categorized in a variety of ways. In terms of the dyeing process, relevant fabric categories include printing series, plain series, satin series, small jacquard series, big jacquard series and yarn-dyed jacquard series. With respect to texture, fabric products are categorized into pure cotton series, silk wadding series, polyester series, pure silk series, Lesell series (represented by Tencel, Modal, etc.), and special material series (such as colored cotton, bamboo fiber, bamboo charcoal fiber, soybean fiber, milk fiber, etc.).

Quilts are generally categorized according to their filler. Quilts may be divided into cotton-batting, wool, feather and vacuum (See Photos 9–14).



Photo IX: Bedding with Chinese folk elements (blue and white porcelain)



Photo X: Bedding of printed calicos



Photo XI: Bedding with European simple elements



Photo XII: Bedding of small jacquard satins



Photo XIII: Bedding for wedding



Photo XIV: Satin silk quilt



As far as Nantong's home textile market is concerned, brand building is a reflection of the overall quality of the industry here and a symbol of its general strength. Brand indicates value and efficiency. Almost all the powerful companies in the market attach great importance to the building of their core brands. Each firm tries to build a competitive brand that will be accepted by the domestic public and by the global market as well.

In Nantong, a brand is generally identified by a trademark. Well-known brands usually have renowned trademarks while regional brands often have regional trademarks. In general, Nantong's home textile products have a regional identity. Brands may serve as a reflection of regional culture, product quality and market management. In recent years, many leading home textile enterprises in Nantong have sought to foster brand development. Successful branding strategies have been implemented by Goldsun Clothing, Luolai Group, and Mingchao Hometextiles. The bedding accessories of brand "Luolai" were awarded the "China Top Brand" prize in 2005. Another firm, Mingchao International Trade Co., Ltd. has successfully entered markets in Shanghai and Hong Kong and now maintains a presence in more than 100 cities in 20 Chinese provinces, municipalities or autonomous regions. Mingchao owns four major sub-brands: "Mengtianzi," "Yasili," "Mingchao," and "Yibufan Weidi." Among them, "Yasili" has been registered in Hong Kong and "Mengtianzi" won the title of "Chinese Famous Trademark" in November 2008. After "Mengtianzi" became an influential brand, the company successfully established Hong Kong Sunny Sunrise Textile International Limited. Mingchao also registered the brand "Yasili" in Hong Kong, targeting medium and high income consumers.

Since 2007, Mingchao has opened exclusive agencies in the provinces of Jiangsu, Zhejiang and Anhui. The company has also attempted to sell home textile products of the brand "Mingchao" in supermarkets in major cities such as Shanghai and Beijing. Mingchao has also been in negotiations with other supermarket chains such as Wal-Mart. The brand "Yibufan Weidi" has

been sold in the markets in Africa and Middle East.

In the two major markets of Nantong, a number of brands have gradually been recognized by consumers and have increasingly won higher praise in the industry. These well-known brands include Violet, Kasen, Bermó, Lansiyu, Xueleili, Dreamla, Goldsun, Zhuotai, Bestwish, Tomorrow and Mingchao. With the development of Nantong brands, the innovation potential of enterprises and their awareness of the importance of IP protection have improved. More than 200 enterprises have established R&D institutions for designing of new products, either in the two markets, in Shanghai or even abroad.

Almost all enterprises in Nantong home textile market have adopted the brand development strategy of “big home textile market.” Ten years ago, these enterprises were generally small in size with few having an annual sales income of above RMB 50 million. However, today nearly 100 enterprises have an annual sales income of above RMB 50 million. The annual sales of Luolai Company have reached nearly RMB 1 billion. There are also other businesses whose annual sales have exceeded RMB 100 million, such as Jiayusi, Goldsun, Violet, Kasen, etc. Thanks to the branding strategy, the businesses improved their operations and increased their production by 20% annually. Currently, there are over 600 home textile enterprises above designated size in Nantong (418 are from Tongzhou and Haimen), more than 10 of which have an annual sales income of above RMB 100 million. With significant economies of scale, a number of great brands, a big share in domestic market and a significant influence in global market, Nantong home textile market has been widely recognized by the industry both at home and abroad.

Nowadays, Nantong’s home textile industry has formed clusters of both industries and brands. Brand development has promoted independent innovation capabilities of enterprises, public awareness of IPR protection has been improved, and the R&D centers and copyright trading centers matching

the industrial development have been set up. More than 200 enterprises have established R&D institutions for the design of new products, and some companies that develop brands have located their R&D centers for design in Shanghai, a nearby international city. And some other companies even build their R&D centers overseas for learning excellent innovations and designs of the home textile industries there. The design standards of Nantong's home textile industry continues to improve with novel products, increased specialization and scale economies in production.

► 2.4 Nantong's Comparative Advantages

2.4.1 Geographic Advantages

In China, there are only two cities that are located at the T-intersection point of the coastal economic belt and the Yangtze River economic belt: one is Shanghai, an international metropolis. The other is Nantong, a city standing at the north shore of Yangtze River and facing Shanghai across the river. Being surrounded by rivers and seas while connecting the South and North of the country, Nantong has many geographic similarities to Shanghai. Indeed, the city has been called the “Northern Shanghai.” Nantong faces the two major trading directions, one toward the overseas market and one into the interior land. With a 364.91-kilometer river bank line and coastline in its territory, Nantong enjoys other well-known titles as “Pearl of the River and Sea” and the “First Window on the Yangtze River”.

Nantong is located in the northern subtropical monsoon climate zone. It has a mild climate, four distinct seasons, sufficient rain, and significant maritime climate features. With a total area of 8,001 square kilometers, Nantong city has 7.12 million Chinese acres of cultivated land. In addition to the area of rivers, lakes and the Langshan hillocks, the terrain generally rises to about 5 meters above the sea level in Nantong.

With a total population of 7.863 million, Nantong is a densely populated area. Nantong was also one of China's first 14 coastal cities that were open to

the outside world. It has jurisdiction over five counties (cities), three districts (Tongzhou city was turned into a district in July 2009), and a state-level economic and technological development zone.

Nantong has very convenient communications. To the south of the plains of North Jiangsu, Nantong connects to the Eurasian Continental Bridge by rail. At the Yangtze River estuary, Nantong can easily reach the coastal areas of China and all ports of the world. Up along the river, Nantong is connected with Jiangsu, Anhui, Jiangxi, Hubei, Hunan, Sichuan provinces, as well as Yunnan, Guizhou, Shaanxi, and Henan. The recent completion of the Su-Tong Yangtze River Highway Bridge^① put Nantong within a one-hour-communication circle of Shanghai. Currently, two cross-river bridges, which will link Nantong's Haimen and Qidong respectively with Chonghai and Chongqi of Shanghai's Chongming Island, are under construction.

Nantong boasts four major river systems, the Tongyang Canal, New Tongyang Canal, Tonglv Canal, and Tongqi Canal, which have all brought significant convenience to the city's economic development. Xingdong Airport in Nantong provides direct flights to eight cities while the Shanghai Hongqiao Airport and Pudong International Airport are only one and one half hours' drive from Nantong. As a complete transportation hub of all water, land and air communications, Nantong possess a multi-functional and intersectional transportation network. Nantong has also been called the city of "Golden Coast," "Golden Waterways," and "Golden Channels."^②

2.4.2 Historical Advantages

During the reign of Emperor Guangxu, Zhang Jian (1853-1926), a Number One Scholar at the end of Qing Dynasty from Nantong's Haimen

① A two-way six-lane stayed-cable bridge across the Yangtze River to connect Nantong and Suzhou. The construction of the bridge cuts the drive between Nantong and Shanghai down to less than an hour.

② Please visit: <http://www.nantong.gov.cn/col/col166/index.html>.



county, resigned and returned to his hometown. He had had many achievements in commercial business and he had also promoted the reclamation of the coastal tidal flats for the cultivation of cotton. Zhang Jian also set up institutions to teach women modern textile technology.

With the introduction of advanced western equipment, Zhang Jian opened the first three plants of the Dasheng Spinning Mill laying the foundation for Nantong's modern textile industry. He promoted the agricultural, industrial and educational modernization of Nantong and its neighborhood. In China's modern history, he was viewed as an influential business man with significant achievements, as well as a hard-working educator.

By actively developing agriculture through science and education, Zhang Jian brought about the revitalization of both the cotton and iron industries. He strongly believed that "the cotton and iron industries can dominate the economic situation". In practice he spared no efforts in developing cotton and iron industries to revitalize the national industry and to reject the foreign goods. At that time, spinning and weaving in household workshops became quite common and almost every family had someone engaged in such activities on a daily basis. The tradition of weaving and spinning was gradually established and handed down over the years.

In Zhang's view, the key of cotton cultivation was the selection of good cotton species. China's agriculture had always relied heavily on old customs and beliefs. There were no specific research institutions on species selection, protection or improvement. For this reason, even good species would degrade over time. Zhang was personally involved in the adoption of scientific measures to improve and promote cotton seeds in Nantong and in the northern Jiangsu salt region. In 1914, China's second test site for cotton was built in Nantong specifically to investigate the characteristics of American cotton. In this way Zhang made a significant contribution to improving cotton types and cultivating talent.

After ten years of research efforts, the American cotton was finally established in the Tongzhou and northern Jiangsu salt regions. The introduction of American cotton brought about profound changes. The original Chinese cotton generally could spin only 8 to 12 low count yarns (12 to 14 at most for top-quality cotton from Tongzhou). With the American cotton, the textile industry could spin 32 to 42 spun yarns. By 1934, the land area dedicated to growing cotton in the seven counties of Nantong, Rugao, Haimen, Dongtai, Qidong, Yancheng, and Funing totaled 4,817,094-Chinese-acres. Of this total, 40.25%, i.e., 1,939,000 Chinese acres were dedicated to American cotton cultivation. Zhang Jian continued to develop the cotton industry in the Nantong region for the rest of his life. In the early 1950s, Chairman Mao Zedong once said, “The light industry of China would never make it without Zhang Jian.”^①

► 2.5 Development of the Nantong Economy

In recent years Nantong city has been actively exploring a basic strategy for development. The Nantong strategy includes “relying on rivers and seas, growing central Jiangsu, integrating into southern Jiangsu, connecting Shanghai, going global and realizing relatively comfortable life for people.” In pursuing these strategic goals, Nantong has achieved the highest GDP growth in the entire province three years in a row. Nantong has also added more newly formed private enterprises and more individual and commercial households than any other city in Jiangsu for 11 consecutive years. Family income in both urban and rural parts of the region has maintained double-digit growth for three consecutive years, exceeding the provincial average. And in terms of protecting the environment, Nantong city has for many years been considered the best in the province and among the top ranked cities in all of

① Ma Wanming, Wang Siming, Li Qun: “On Zhang Jian’s Booming Agriculture through Science and Education, and His Practice of Advocating “Cotton and Iron Industries” in the *Journal of Nanjing Agricultural University* (Social Science Edition), Issue 2, 2001.



China. Nantong has been recognized as a “National Model City for Environment Protection.”

In 2008, the value added for all industries above designated size in Nantong city amounted to RMB 131.28 billion. Of this total, RMB 2.215 billion was generated by state-owned and collective enterprises, RMB 74.448 billion from share-holding companies and share-holding cooperative enterprises, RMB 49.921 billion from foreign investment enterprises, and RMB 4.696 billion from other kinds of companies. In the same year, the output value of agriculture, livestock and fishery reached RMB 37.146 billion, of which RMB 15.389 billion was produced by agriculture, RMB 10.992 billion by forestry and animal husbandry, RMB 9.275 billion by fishery, and RMB 1.49 billion by agricultural services. In 2008, Nantong’s overall economic performance ranked fourth in all of Jiangsu Province.^① Nantong has provided a good economic environment for the development of the home textile industry, and in turn the home textile industry has contributed to the growth achieved in Nantong’s overall economy.

The thriving development of Nantong home textile market has close relation with the city’s accumulation of unique cultural and historical heritage, as well as the boom of science and technology in its modern textile and other light industries. Moreover, Nantong possesses great advantages in geography and transportation, which enables home textile products to circulate in more areas and brings huge vitality for the industry within the context of China’s reform and opening up. Through the implementation of “brand development” strategy, Nantong home textile industry keeps pace with the time, integrates into the national and global market economy and maintains strong competitiveness.

① Luo Yimin: “Speech on the Nantong’s Conference Commemorating the 30th Anniversary of Reform and Opening Up” (Abstract).

Website: http://www.ntjy.net/EducationInfo/jylj/EducationInfo_20081226152206.html.

Part *THREE*

Copyright Protection in Nantong

► 3.1 Legal Treatment of Intellectual Property in China

Since the Third Session of the Eleventh Central Committee of the CPC in 1978, China's legal system has changed dramatically in its treatment of intellectual property. China's first *Trademark Law*, *Patent Law* and *Copyright Law* were passed respectively in 1982, 1984 and 1990. The *Civil Law*, adopted in 1986, recognized intellectual property rights ("IPR") as the civil rights of citizens and legal persons and it makes general provisions for copyright protection. The *Patent Law* and *Trademark Law* were subsequently amended in 1992 and 1993 respectively. To assist in the implementation of these laws after their approval, the State Council developed the "Trademark Law Implementing Regulations," the "Patent Law Implementation Rules" and the "Copyright Law Implementing Regulations." In addition, following negotiations among China, the US and central Europe, China joined the World Trade Organization (WTO). Subsequently, China accelerated the revision of its intellectual property laws. The second amendments of *Trademark Law* and *Patent Law* were completed in October 2001 and August 2000 respectively. The first amendment of *Copyright Law* was completed in October 2001, followed by the revision of corresponding implementation rules and regulations by the State Council. The third amendment of *Patent Law* was approved and implemented in 2008.

In terms of protection level, China's intellectual property legislation has

generally referenced Western legal systems in order to match the protection standards embodied in international agreements, such as the *Berne Convention* and the *TRIPs Agreement*.

By contrast in the legislative process for IPR, China gave more consideration to non-Western models. For example, in terms of IPR protection means, China adopted the administrative and judicial double-track system; while in the area of copyright, China's *Copyright Law* offers two means of protection for right owners, one is judicial approach, i.e., inquiring into the civil or criminal liabilities of infringers through litigation, and another is the administrative enforcement, i.e., conducting administrative investigation or mediation to acts of violations by copyright administrative departments. China's IPR legislation has provided the legal foundation for the development of industries that heavily rely on such protection. In home textile markets, the design of floral patterns has a direct impact on product sales and corporate profits. For this reason, home textile enterprises attach great importance to the IPR protection of the design. In this area, Nantong has developed a creative plan that differs somewhat from that of other regions in China. A large number of enterprises in the region now choose to protect their designs of flower styles under copyright law.

► 3.2 The Need to Protect Home Textile Products in Nantong

3.2.1 *Traditional Practices and New Entry*

Peasants in Tongzhou and Haimen have traditionally lived on producing and selling textiles. Early in the 1980s, peasants in Sanxing Town, the Home of Embroidery created the Dieshiqiao embroidery market. Then cloth trade started to thrive in the adjacent Zhihao Village, Chuanjiang Town. Early in 1987, 21 households in Zhihao Village pooled RMB10, 500 to build a 1,650 m² asbestos tile shed, under which 64 stalls were installed to form a grey cloth market. The marketplace expanded to 12,000 m² in 1989 and accommodated 200 stalls. As noted previously in this report, the majority of traders sold sin-

gle-color grey cloth and few varieties of printed fabric. The similarity of products sold by each producer resulted in aggressive competition while widespread copying undermined the quality of the printed fabrics sold in the area. Eventually fabric traders could not earn profits and the market was in disorder.

In August 1996, Taiwan-based Xiangsheng entered Zhihao market with over 100 new printing patterns copyrighted in Taiwan. These 100 plus patterns from Taiwan were much sought after in the market. Some patterns sold as much as 10,000 meters per day. Assuming RMB 5 per meter, the daily turnaround reached RMB 50,000. The large profits earned by these patterns lured many local fabric traders to piracy. The supply of pirated printed fabrics in the market expanded rapidly and the business performance in the market suffered.

The Taiwan businessmen then sought protection under Chinese copyright law. They filed complaints with the newly established Copyright Administration Office of Nantong Municipal Copyright Bureau. These complaints attracted much attention from copyright authorities in Jiangsu Province and NCAC. The complaints were also heard by the party committee and the government of Nantong City. The National Copyright Administration explicitly replied to the Jiangsu office that an owner's copyright in patterns of printed fabrics must be granted a level of protection equal to that granted to owners of artistic works. The Nantong Municipal Government assigned to the market a joint enforcement team led by the municipal copyright administration. The team also included representatives from public security, industrial and commercial administration and the local government. The team publicized the Copyright Law and seized infringing products. On occasion, they were confronted with violent opposition and attack by peasant traders. The seized infringing products were put under the custody of the police. After continuing publicity of the Copyright Law and stringent punishment for acts of piracy, the local business community learned that a market where

copyrights were protected could also provide sustainable growth and prosperity. The local government began to proactively support copyright protection for home textiles in Nantong.

3.2.2 Administrative Protection for Copyright in Nantong

In March 1997, the government of Chuangang Town, Tongzhou City established the Zhihao Market Copyright Leadership Team. The government also created the first village-level copyright administration body nationwide - Tongzhou Zhihao Market Copyright Administration Office. The Office was directed by the Nantong Municipal Copyright Administration to publicize copyright laws and regulations, to conduct preliminary reviews on registered works, to mediate copyright disputes and to create a product identification team that could preliminary identify infringing works. The Office defined job requirements and service commitments such as the “Three Disclose’s” and the “Eight No’s” to ensure public understanding of the law and its enforcement.

The development of the Copyright Administration Office did not occur without some difficulties however. As the activities of the Office expanded, criminal gangs began to exploit the new copyright management system. Some outlaws charged copyright owners a so-called “copyright protection fee” that ranged from ten thousands up to one hundred thousand yuan. These criminals also committed arson and other violent acts including murder. In response, the party committee and the government of Tongzhou organized local public security authorities to crack down on the gangs. At the same time, the court held public trials of the gangsters in the market. Eventually, these criminal activities were curtailed and the market began once again to grow.

The enforcement action taken by the administration triggered similar action in the neighboring town Sanxing and in October 2002 the government set up the Sanxing Town Copyright Administration Office. Since then registration of works and mediation of disputes in the two markets has substantially increased.

3.2.3 Judicial Protection for Copyright in Nantong

In October 2001, the Intermediate People's Court of Nantong City established the Intellectual Property Trial Chamber. In 2002, the Court's jurisdiction was extended to certain patent cases upon approval by the Supreme People's Court. In October 2007, Tongzhou court for the first time obtained trial jurisdiction over certain intellectual property cases upon approval by the Supreme People's Court. This was the first time that such a court was given jurisdiction over intellectual property cases in North and Central Jiangsu.

To meet the increasing demand for efficient and quick judicial protection of intellectual property in the home textile market, it became necessary for the court to put in place a quick response mechanism for the handling of such cases. In particular, the court sought to accelerate case filing, evidence collection and preservation and hearing times in order to match the relatively short life cycles of patterns in the home textile industry. The Intermediate Peoples' Court of Nantong City took steps to improve many of these judicial functions in 2008. The District People's Court of Tongzhou City was delegated to set up the Intellectual Property Circuit Court in the two home textile markets in order to try intellectual property disputes and to accept request for preliminary injunctions. However, any dispute not resolved through mediation by the copyright office can be referred to the court and tried locally.

From 2005 through 2008, the Intermediate Peoples' Court of Nantong City took in 922 intellectual property cases, including 502 copyright disputes. 460 of these disputes (91.6%) of these cases involved copyright disputes over home textile products. 457 cases or (or 99.3% of the total) were resolved by the court. Two of these cases were mentioned in the Gazette of the Supreme People's Court and one case was used in the development of an educational film entitled "Chinese Courts." Many of these copyright cases were also included in published "Collections" of Important Cases in China.

In response to the increased demand for judicial protection of intellectual property in Nantong, the Intermediate People's Court also developed a "roadmap" for the procedures to be followed in intellectual property trials. The Court succeeded in establishing a new system that has worked to promote sustainable growth in the home textile markets.

The first step in the creation of the new judicial system was to plan the functions and scope of the activities that the system would address. In 2005, based on thorough surveys, the Rules for Trial of Disputes over Copyright in Bedding Fabric Patterns were developed specifically to accommodate the product and market characteristics of home textiles. In order to improve the speed and efficiency of the system, an intellectual property circuit court was set up in the Nantong home textile markets which could take on some of the disputes that were being heard in the District Court of Tongzhou. To provide additional guidance, the Intermediate People's Court also developed the Interim Procedures for Quick Trial of Home Textile Intellectual Property Cases. These rules helped planners to optimize the allocation of trial resources and to unify jurisdictional mechanisms in the two home textile markets. In June of 2008, the Intermediate People's Court of Nantong also extended the intellectual property circuit court's jurisdiction to cover pattern copyright cases in the Dieshiqiao International Home Textile Center in Sanxing, Haimen.

The second step followed in creating the new judicial system was to enhance three important functions: namely protection of IP, education as to importance and legal significance of IP and guidance as to the functions of judicial trials in this area. The protection function was seen to include pretrial preservation of evidence in order to strengthen crackdown on all forms of infringement and to provide an effective judicial deterrent mechanism. The education function was addressed by distributing copyright promotional materials, making trials more public, and by developing special TV programs and speeches, so as to enable all home textile traders to understand the basics

of copyright laws and its procedures. The guidance function sought to encourage home textile manufacturers to invest in proprietary R&D for future textile development.

The third step followed in creating the new copyright judicial system was to improve the Court's processes and procedures. These efforts were sometimes called the five mechanisms. Fundamentally, the five mechanisms sought to create effective interfaces between judicial processes and the administration of copyright in the market. For example, it was decided that the type of intellectual property at issue must be identified by the court for the pattern design of the home textiles and that these decisions would be followed by the copyright administration office. All patterns that demonstrated originality would be protected as works of visual art. With respect to the market, both sides were encouraged to communicate on new forms of infringement in the market and on new legal issues, so as to prepare for application of law. With respect to the submission of evidence admission, the court was directed to give higher priority to the findings of infringement that had been obtained during investigation of the market copyright administration office. For the mediation of disputes, the court mediation efforts were now to be integrated with the coordination by the market copyright administration office.

The new procedures led to a number of interesting outcomes. For example, in the Zhihao market, the market copyright office successfully mediated 861 disputes from 2003 to the end of 2008. In the same period, only 100 disputes were referred to judicial proceedings. During the past few years, 90% of all disputes over intellectual property of home textiles were ultimately withdrawn from the court through mediation. However, 100% of the court's judgments on pattern design disputes between local home textile traders in Nantong were honored and enforced.

The pretrial evidence preserved by the court is now combined with the product registration evidence that had been preserved in advance by the

market copyright administration office. In addition, the identification of the copyright infringer previously performed by the by market copyright administration office is also preserved for the use of the Court. The five mechanisms all operate to improve coordination between the market copyright administration office and the judicial proceedings of the court in respect of pattern design.

In recent years, knowledge of the Nantong intellectual property trials has spread throughout Jiangsu province and into many other parts of China. Because of the new procedures, many new litigants, from regions beyond Nantong, have chosen to submit to the jurisdiction of the Nantong court. These cases have resulted in Court orders against defendants (i.e. manufacturers of infringing products) who were based in regions well beyond Nantong. The number of such cases reached 73 in the first nine months of 2009, accounting for 22% of all cases handled during that period.

3.2.4 *Educating the Public*

In order to enhance awareness of the new protections by businesses and individuals, the local government in Nantong adopted a variety of methods to publicize these changes. For example, the government took steps to highlight “World Intellectual Property Day” and the “Month of Strengthening Judicial Protection of Intellectual Property.” The governments’ efforts included press conferences, symposia attended by NPC deputies and entrepreneurs, and training for textile traders a particular focus on intellectual property laws and regulations. In the past few years, 13,000 trainees have attended training sessions provided by the Zhihao Market Copyright Administration Office.

The copyright court also selected typical cases for open court sessions and central rendering of judgments. Since 2006, more than ten court sessions have been opened to the public. These sessions have been attended by more than 400 people. Since its founding, the circuit court has heard and mediated 115 cases in public.

Publicity was also provided through the media. In cooperation with

television stations, the court produced more than 20 episodes of the “Approaching Intellectual Property” program. *Haimen Daily*, a local newspaper, added the “Dieshiqiao Home Textile Weekly” section to provide market updates and to report on copyright protection issues. Promotional materials were also distributed. The court printed 3,000 copies of the *100 Copyright FAQs* and over 200 copies of *Intellectual Property Trial Information*. These publications are distributed via the market copyright offices to traders free of charge. Both market copyright offices also distribute the newsletters *Copyright and Administration* and *Sanxing Copyright Administration*. These publications feature updates on copyright protection in the markets. They announce winners in disputes remind traders of registering works and provide copyright FAQs. In addition, the market copyright office commends individuals and entities who deliver outstanding contributions to copyright protection each year. To date, 16 “Copyright Benchmark Traders” and 20 “Copyright Administration Workers” have been recognized.

The improved reputation for copyright protection has put Nantong in the media spotlight. Nantong’s experience in driving industry development through copyright protection has been the subject of special reports many news media outlets. These include China Central Television, *People’s Daily*, China Intellectual Property News, and *China Press and Publication News*.

Education and awareness building activities have led to a situation when most entrepreneurs would consider copyright protection essential for their business and would be informed about the role of copyright administration on the market.

▶ 3.3 Legal Protection of Home Textiles under the Copyright Law

3.3.1 Categories of “Works” under the Copyright Law

Article 3 of the Copyright Law of China provides that “For the purposes of this Law, the term “works” include works of literature, art, natural science, social science, engineering technology and the like which are

expressed in the following forms...”. Specifically, there are nine categories of works: (1) written works; (2) oral works; (3) musical, dramatic, quyi’, choreographic and acrobatic works; (4) works of fine art and architecture; (5) photographic works; (6) cinematographic works and works created by virtue of an analogous method of film production; (7) drawings of engineering designs, and product designs; maps, sketches and other graphic works and model works; (8) computer software; (9) other works as provided for in laws and administrative regulations. For any subject of creation, copyright protection is only available for those falling within the foregoing categories.

As for the rights enjoyed by the copyright owners, the Copyright Law provides four individual rights and 13 property rights. The individual rights are the rights of publication, authorship, alteration and integrity; the property rights are the rights of reproduction, distribution, rental, exhibition, performance, showing, broadcast, communication through information on networks, making cinematographic work, adaptation, translation, compilation and other rights. As for works of fine art, due to their nature, their authors cannot enjoy all property rights. For example, authors of works of fine art are not entitled to the rights of rental, performance and translation as the Copyright Law provides that the right of rental applies only to cinematographic works and computer software, and the right of translation applies only to written works.

3.3.2 *The Legal Status of Home Textile Patterns*

Foreign nations once questioned China’s efforts to protect textile copyright. The Chinese government maintains that printing patterns on textiles are entitled to copyright protection as long as they meet relevant requirements on works, as set forth in the Copyright Law, which is a legislative choice of China.

Some hold that home textile products with printing patterns should be deemed as “works of applied arts” for protection. There are various

definitions of works of applied arts in and beyond China. For example, the *Glossary of Terms of the Law of Copyright and Neighboring Rights* points out that the works of applied should have both useful and artistic properties. The Supreme Court of the United States holds that only artistic works created for practical uses, or put in practical use after successful creation, can be deemed as works of applied art. Chinese scholars define works of applied art as artistic works that provide usefulness.^① It is clear that works of applied art must have both “useful” and “artistic” properties, regardless of which one dominates. When it comes to home textile products in Nantong, the works of pattern designers are only works of visual art before they are printed on fabrics. However, when they got printed on fabrics, they are integrated with fabrics to create a work of applied art.

Before the Copyright Law was revised, printed fabrics were excluded from works of applied art. With regard to the protection of works of applied art, Paragraph (7), Article 2 of the Berne Convention provides that member countries shall legislate on the protection of industrial designs and works of applied art; if the special protection is not granted legislatively, such works shall be protected as artistic works. China became a member of the Berne Convention in October 1992. However, the Copyright Law, which was entered into force in 1991 does not provide protection for works of applied art. To qualify as a member of the convention, the Chinese government issued the Provisions on the Implementation of the International Copyright Treaties, which provide that copyright protection shall be provided for foreigners’ works of applied art for twenty – five years commencing on the date of completion, while works of fine art that are used in industrial products will not be regarded as works of applied art and, instead, are simply protected as works of visual art under the Copyright Law. Therefore, though it does not

① Li Mingde, Xuchao: “Copyright Law”, Law Press China, 2003, p.47.

mention “works of applied art”, the present Copyright Law of China always protects the artistic properties of “works of applied art” as works of fine art (provided that such artistic properties are separable from useful properties), while their functional properties are protected by industrial property rights. With regard to the application of law on the first dispute in Nantong over home textile patterns, administrative penalties were ordered against the piracy of works of fine art. A Shanghai court, when trying a dispute on cheong-sam, eventually held that the dragon and phoenix pattern printed on the cheong-sam was a work of fine art by reference to judgments of the Intermediate People’s Court of Nantong on similar cases. Therefore, copyright protection for home textiles is a legislative choice of China.

In China, design patterns are identified as “works of fine art” theoretically and practically. The Regulations for the Implementation of the Copyright Law as issued in 1991 and revised in 2002 provide the same definition for “works of fine art”, “...two-or three-dimensional works created in lines, colors or other medium which, when being viewed, impart esthetic effect, such as paintings, works of calligraphy, sculptures and works of architecture”. Though the two versions are identical in wording, the Copyright Law before revision did not provide copyright protection to works of applied art, as mentioned above, while the revised version protects the “artistic” part of works of applied art as works of fine art, which in fact acknowledges the existence of copyright in works of applied art. However, either before or after its revision, pattern designs can be identified as works of fine art in accordance with the Regulations for the Implementation of the Copyright Law.

At present, there is no doubt that patterns of printed fabrics are eligible for copyright protection as works of fine art, but when the issue was first put on the table, pursuing its answer was not a smooth process.

In March 1996, Xiangsheng suffered infringements and raised an issue of how to protect patterns of printed fabrics before authorities. To protect its

lawful rights and interests, the company turned to local patent administration department for patent protection, but the infringed pattern was not patented for design, rendering its claim for patent protection a failure. Finally, the company filed a complaint about piracy with the local copyright administration department. After receiving the complaint, Nantong Municipal Copyright Bureau requested the provincial copyright bureau to clarify whether copyright office could handle the case in accordance with the Copyright Law. Recognizing the difference between patterns of printed fabrics and traditional works of literature, art and science, the Jiangsu Provincial Copyright Bureau requested the opinion of the National Copyright Administration, but also stated in its request that “printing patterns in fabrics are works of fine art...printed fabrics are not works of applied at... printing and dyeing are a form of reproduction”.

The National Copyright Administration replied quickly stating that “We agree with your opinion on infringement upon fabric pattern. Hopefully you will take timely measures to stop infringement”. On that basis, instructed by the provincial copyright bureau, the Nantong Municipal Copyright Bureau enforced an administrative penalty against the infringers in joint efforts with the Nantong Intellectual Property Office (the coordinator then), the industrial and commercial administration and the public security bureau. Illegal gains of one infringer were confiscated and 1,690 m infringing printed fabrics of the other infringer were seized. As a consequence of these developments, printed fabric patterns found its way to protection, mainly copyright protection, and the debates on legal status and protective modes of patterns were finally over.

3.3.3 *Originality in Pattern Design*

In order to qualify for copyright protection, a pattern design must fall under one of the nine categories of works set forth in the Copyright Law. According to Article 2 of the Regulations for the Implementation of the Copy-

right Law^①, works under the Copyright Law must meet three requirements: a) They must be of human intelligence; b) they must be in a tangible form that can be perceived and reproduced by others; and c) they must demonstrate originality. Judged from their creation process and form of manifestation, pattern designs always meet the first two requirements. Whether a pattern design is eligible for protection under the Copyright Law depends on its originality.

Making a comparison between “originality” of works under the Copyright Law and the patentable design under the Patent Law helps better understand whether a pattern design meets the requirement of “originality”. First, from a quantitative perspective, originality does not require that works should be “unique”, for it is theoretically possible for two different individuals to independently create identical works at different times and in different spaces. In such a case, each individual enjoys copyright in their respective works, regardless of which is earlier. Therefore, Article 15 of the *Interpretation of the Supreme People’s Court Concerning Several Issues on Application of Law in Hearing Correctly the Civil Copyright Cases* provides that “For the works created on the same theme by different authors, the expressions of which are creative and independently completed, the authors enjoy independent copyrights of their corresponding works”.

Paragraph 1, Article 23 of the Patent Law provides that “No design for which patent right is to be granted may be identical with or similar to any design which, before the date of filing, has been publicly disclosed in publications in the country or abroad or has been publicly used in the country or abroad, or be in conflict with any prior legal rights of any other person.”

① Article 2 of the *Regulations for the Implementation of the Copyright Law of the People’s Republic of China* provides that “works” referred to in the Copyright Law mean original intellectual creations in the literary, artistic and scientific domain, in so far as they are capable of being reproduced in a certain tangible form.

From a qualitative perspective, the Patent Law also requires that “any design for which a patent is granted shall not be attributed to the existing design, and no entity or individual has, before the date of application, filed an application with the patent administrative department of the State Council on the identical design and recorded it in the patent documents published after the date of application”. For the foregoing reasons, works protected under the Copyright Law need not have distinguishing features when compared with prior works; instead, they are only required to be independently created, though identical to prior works in all aspects. In addition, “originality” of works “does not mean (the works) carry a high literary or aesthetic value. But their intelligent creativity cannot be too negligible”^①. In the Nantong home textile market, local authorities do not accept some simple patterns as works and refuse to provide copyright protection for them, for these patterns, just a simple combination of graphic elements in public domains, in their opinion, are so simple that their creativity is really negligible, or even that no creativity is demonstrated at all. For example, the two home textile patterns illustrated below are only a simple combination of regular lines and graphics, which are easily seen in the market, so they are not original. Such patterns are generally not eligible for copyright protection.



Photo XV



Photo XVI

① Wang Qian: “Textbook of Intellectual Property Law”, China Renmin University Press, 2007, p.42.

In the realm of copyright protection, the copyright protection of home textile products mainly involves patterns, models and packaging. Below are some examples of pattern designs.



Photo XVII

This piece of home textile fabrics represents works that depict realistic flowers. With prototype being cotton rose, the flower pattern is stylized into green-orange-red combination, accompanied by mini jacquard. The design is in a fresh and bright style suitable for a broad range of ages.



Photo XVIII

This home textile product is designed primarily based on flowers in a liberal style, accompanied by irregular lines. The main colors are grey, black and white, demonstrating a fashionable and simple style.

3.3.4 Home Textile Products as Works of Fine Arts

No matter whether printed fabrics are accepted as works of applied art, their patterns are sufficiently separable from fabrics to exist as independent works of fine art. Therefore, either before or after revision of the Copyright Law, patterns of printed fabrics or home textiles are fully eligible for copyright protection as long as they are original.

In the textile market, the major form of infringement is piratical printing or embroidering of copyrighted patterns in one's own fabrics. These activities infringe upon the copyright owner's right to reproduce patterns and, sometimes, the right of adaptation. Selling fabrics or finished fabric products with piratical patterns in the market infringe upon the copyright owner's right of distribution.

According to the Copyright Law of China, an infringer upon the owner's rights of adaptation, reproduction or distribution in works of fine art shall assume civil liabilities, including cessation of infringement and payment of damages.

If the infringer hurts the public interest in addition to infringement upon the copyright owner's right of reproducing or distributing works, the infringer shall assume administrative liabilities in addition to civil liabilities, including cessation of infringement as ordered by administrative authorities, confiscation of illegal gains, seizure and destruction of infringing reproductions, and administrative fine, up to seizure of materials, tools and equipments mainly used for making infringing reproductions under serious circumstances. Here "serious circumstances" refer to four situations: First, illegal gains (profits) reach RMB 2,500 or above; second, illegal turnover reaches RMB 15,000 or above; third, 250 or more pieces of infringing products are traded; fourth, repeat infringement upon copyright occurs.

The infringer shall also be held criminally liable if the reproduction or distribution right in works of fine art is infringed upon to a severe extent. According to interpretation of the Supreme People's Court, in the case of infringement upon the right of reproduction or distribution, if the number of infringing reproductions reaches 500 or above, or illegal gains from such act reach RMB 30,000 or above or illegal turnover reaches RMB 50,000 or above, the infringer may be sentenced to criminal detention or less than three years in prison for infringement upon copyright, and/or subjected to a fine 1-5 times illegal gains or 0.5-1 time the illegal turnover. If 25,000 or more reproductions are involved in infringement, or the illegal gains from such act reach RMB 150,000 or illegal turnover reaches RMB 250,000 or above, the

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punishment against freedom will be 3-7 years and a fine shall be imposed under the foregoing criteria in addition. The judicial interpretation of the Supreme People's Court also provides that, against the crime of infringement upon copyright, the copyright owner may lodge a criminal action or the prosecutorial authorities may lodge a public prosecution. Lower level courts in China all have jurisdiction over copyright-related crimes.

To date, no criminal cases have occurred in the Nantong home textile market due to piracy of copyrighted patterns. After years of administrative law enforcement, the unscrupulous piracy of patterns has been eliminated in the local market. However, there still exist underground factories that pirate copyrighted patterns and underground trading in piratical goods hidden on residential premises. As administrative supervisors are not empowered to search residential premises, the authorities have considered taking criminal measures to crack down on proven piracies, eliminate underground piracies, deter infringers from illegal acts and protect local market order.

3.4 Legal Protection of Home Textiles under the Patent and Trademark Laws

In order to create successful home textile products, three elements are the most critical. These are the fabric, the model and the pattern. Among the three factors, pattern design is the most important because it is the easiest characteristic for a designer to alter but it also most immediately attracts the attention of consumers. For these reasons, textile manufacturers typically attempt to exhaust all available legal protections against copying of their pattern designs. In addition to the Copyright Law, legal protection of pattern designs is also available in China from the Patent Law.

3.4.1 Protection of Design under the Patent Law

The Patent Law of China that took effect in 2008 provides that “the term ‘design’ refers to any new design of a product’s shape, pattern or a combination thereof, as well as the combination of the color and the shape or pattern of a product, which creates an aesthetic feeling and is fit for industrial

application.” It is shown by this definition that there is no clear way to distinguish patentable designs from works of applied art. Both combine useful and aesthetic properties, yet the design stresses that the “aesthetic feeling” must be “fit for industrial application.” In fact, in an era of highly developed technologies, literally any “aesthetic feeling” manually created can be reproduced through industrial means. Therefore, distinguishing industrial design from works of applied art makes sense only when it comes to which one has better access to legal protection, just as the Berne Convention puts forward industrial design and works of applied art in an attempt to requesting member countries to legislatively provide sufficient protection.

Protecting design under the Patent Law is a characteristic of China’s intellectual property laws. When the Patent Law was drafted, different opinions emerged on whether to include design into patent protection. In subsequent legislative surveys, representatives from the light industry, handcraft, textiles and foreign trade in Shanghai stated that local industrial products would be soon copied broadly when any new model or pattern was introduced, and designers could not get due returns on their innovation and investments. The legal protection of designs needed to be addressed urgently. However, as enactment of a Copyright Law was not within the foreseeable future at that time, the legislative authorities of the country decided to include design into patent protection.

Therefore, patterns of printed fabrics and home textiles may claim either copyright protection or design patent protection, provided that relevant conditions are met. In fact, manufacturers all resorted to copyright protection in early days of copyright authorities’ intervention in intellectual property issues in the local market. In order to implement the Outline of the National Intellectual Property Strategy, in recent years, the patent administration department of local governments has launched the patent funding program to provide financial supports for pattern patent applications and to encourage innovation. Some manufacturers have begun to apply for design patent.

3.4.2 Comparing Copyright and Patent Law Protection

The Copyright Law protects the aesthetic part of works of applied art that is separable from the useful part, while the Patent Law addresses industrial design. Though the Copyright Law of China does not mention the term of “works of applied art” in its text, it provides full protection for all works of applied art as works of fine art. Meanwhile, as it is hard to distinguish works of applied art from design, the so-called industrial design may also be protected by the Copyright Law as long as “aesthetic” property is present. Patent protection of industrial design is only available for the specific product designed in the application filed. For example, someone creates a cartoon image which is later made into a dust bin. After an application for a design patent is filed and the patent is granted, what the Patent Law protects is only the cartoon-style dust bin. Another person making the same carton image into a product other than dust bin will not constitute infringement upon patented design, but only infringement upon the copyright of the carton image, i.e. works of fine art.

Copyright protection provides better protection for patterns than design patent protection. First, the Copyright Law provides automatic protection for works. Article 6 of the Regulations for the Implementation of the Copyright Law provides that “a copyright shall occur on the date when a work is created”; that is, the Copyright Law automatically protects the copyright of works without any registration or approval. The Chinese government currently provides voluntary registration services for works for the purpose of providing preliminary evidence of the copyright owner’s copyright in works and facilitating copyright trade and dispute resolution. Whether to register works is at the sole discretion of copyright owners.

To receive patent protection for a pattern, its designer must file an application with the patent administration department, and it takes a relatively long time to get the application approved. Surveys find that a well-sold pattern in the home textile market only has a life cycle of several months.

Therefore, the Copyright Law can provide automatic protection for the pattern from the very beginning, while design patent provides less protection for patterns due to its lagging nature derived from application process. In addition, because of voluntary registration of works, copyright owners can better produce evidence when his pattern works suffer infringement, for the certificate of voluntary registration can provide a weight of proof similar to the certificate of patent in judicial proceedings. Copyright protection will also not limit works to the specific objects that embody them, while a design patent is only granted to a specific product. Finally, works of visual art are copyrighted for 50 years, commencing on the date of creation and ending on 31 December of the 50th year, much longer than the 10 years' design patent.

Surveys also find that the rising number of applications for design patent of patterns is mainly attributable to the patent application funding program. The designers apply for patent for cost reasons and because such an application will never affect the copyright protection always available for patterns. In other words, designers may receive protection of pattern works under the Copyright Law before their patterns are granted design patent.

It is obvious that the principle of automatic protection under the Copyright Law makes it an irreplaceable choice for home textile products.

3.4.3 Protection of Patterns under the Trademark Law

With the expansion of the Nantong home textile market and the evolution of product development in textiles, many local manufacturers begin to value and implement branding for their products. Since trademark registration is an integral part of brand building, these manufacturers began to follow a multi-faced intellectual property strategy that sought to integrate copyright, patent and trademark protection for their home textile products.

Trademark is a mark that the provider of a commodity or service uses to distinguish his commodity or service from identical or similar commodities or services provided by others. In a market economy, the registration of a trademark is the first step taken by a business that wishes to sell branded

products. A home textile manufacturer may seek to establish his distinct reputation by providing high-quality fabrics and diversified patterns that are protected not only under the Patent and Copyright Laws and but also through the establishment of a trademark. Currently, many enterprises in the Nantong home textile market have increasingly begun to favor such a brand strategy. Many have created brands that are well known nationwide and even in international markets. Like the Copyright Law, the Trademark Law of China protects trademarks through civil, administrative and criminal approaches.

3.4.4 *The Overarching Importance of Copyright Protection*

Trademark protection in Nantong home textile markets presents little difference from trademark protection in other markets in China. Local manufacturers do pay attention to trademark, as one more component of their IPR protection program. However, with regard to market effects, trademark protection plays a supporting role in driving prosperity for the local home textile market.

It should also be noted that manufacturers in Nantong take protective measures to protect business secrets embodied in their home textile products. For example, strict secrecy is generally maintained during pattern design and sale. Designers are required to sign a confidentiality agreement when joining the team. In addition, videotaping and photography are prohibited during exhibition. Finally, the sale of designer textile products at retail is usually prohibited.^① These measures are intended to prevent piracy arising from disclosure of business secrets.

In general the Copyright Law plays the leading role in the protection of home textile products. Copyright protection has irreplaceable advantages, both inherently and externally. Pattern protection under the Patent Law is

① Products are only sold to groups of tourists led by the tour guide, mainly to prevent competitors from buying for copying.

usually just a technical choice for textile manufacturers under the present policy. They apply for patents not solely for the purpose of seeking the patent. In the home textile markets, the Patent Law plays its special role mainly by protecting innovation in textile manufacture technology. Trademark protection is equally available for all market segments but does not play a significant role in the Nantong home textile markets. Given the complexity of the market the home textile industry in Nantong uses integrated intellectual property protection.

▶ 3.5 The Copyright Protection System

3.5.1 Administrative Protection

3.5.1.1 Provisions for the Administrative Protection of Copyrights

As mentioned above, the Copyright Law of China provides copyright owners with administrative protection, a major feature of the law. Only a few countries provide such administrative protection in their copyright laws, such as Russia and Laos. Article 47 of the Copyright Law of China provides that, if anyone commits the following acts that are detrimental to public interest, the copyright administration department may order him to cease infringements, confiscate illegal gains, seize and destroy infringing reproductions and impose a fine of no more than three times the illegal turnover or, if the illegal turnover is not available, no more than RMB 100,000. If the violation is serious, the copyright administration department may also confiscate the materials, tools, equipments etc. mainly used to make the infringing reproductions. Such acts include reproducing and/or distributing works without permission of their copyright owners. It should be noted that authorized use of works by means of adaptation is only subject to civil liabilities, such as cessation of infringement and payment of damages.

Apart from administrative penalties, copyright disputes (contractual or tortious) may be mediated under the Copyright Law of China. The copyright administration department, as a government agency, is authorized to mediate

tortious disputes. In reality, mediation by the copyright administration department plays a crucial role in resolving tortious disputes and helps save much of the limited judicial resources.

3.5.1.2 Administrative Offices

The Zhihao Market Copyright Administration Office located at China Nantong Home Textile Center, Chuanjiang Town, Tongzhou City, and the Sanxing Copyright Administration Office located at Dieshiqiao International Home Textile Center, Sanxing Town, Haimen were set up in 1997 and 2002, respectively. However, their birth was a critical event in China's history of administration IP protection. These offices are the first copyright administration bodies at the village level and the town level, respectively. The two offices are administratively subordinate to the local township governments, and are professionally directed by the Nantong Municipal Copyright Bureau. The offices are delegated by Nantong Municipal Copyright Bureau to handle copyright registration of works, to take in complaints about infringements, to conduct initial surveys on infringements and collect evidence, and to mediate infringement disputes.



Photo XX: Zhihao Market Copyright Administration Office, Tongzhou, located at China Nantong Home Textile Center



Photo XXI: Sanxing Market Copyright Administration Office, Haimen, located at Dieshiqiao International Home Textile Center

3.5.1.3 Functions of the Administrative Offices

The copyright administration office in Nantong has four major functions.

The first function is publicizing the Copyright Law and educating traders and manufacturers about its provisions. As noted earlier, in order to maintain regular publicity, the offices compile and distribute the publication “*Copyright and Administration*”, including such sections as Copyright Law, Case Study, Voice of Businessmen and Piracy Crackdown Results.

The second function is the works registration service that facilitates applications to register works. Businessmen are guided through the registration process while registered works are reviewed in order to check authenticity and ensure their quality.

The third function is anti-piracy enforcement. On the one hand, the offices engage actively in educational, awareness building and assistance activities with the market players. In the past 12 years, the copyright administration offices have signed non-piracy agreement with most local businessmen, thereby guiding them towards lawful operation. On the other hand, harsh measures may be undertaken in order to creak down on piracy and contain its spread. The offices set up a complaint box to receive complaints and issued the Procedures on Incentives for Reporting Infringement on Copyright in Patterns of Printed Fabrics. The offices also conduct joint operations with such authorities as public security, industrial and commercial administration and taxation.

The fourth function is mediating copyright disputes. In mediation, officials attempt to educate, persuade and move the parties in a dispute. Most cases are ultimately resolved. In recognition of the offices’ extensive experience in handling disputes, the local courts request cooperation from the offices when hearing civil disputes. The Courts have also entered into the Memorandum on Cooperation in Litigation and Mediation of Copyright Disputes Concerning Home Textile Products with the offices. The Intermediate Peoples’ Court of Nantong City designated the copyright administration offices as its mediation organizations.

The offices have also established a complete set of procedures and rules

for copyright administration, including the Procedures for Registration of Works, the Rules on Investigation and Evidence Collection, the Mediation Rules, the Financial Management Procedures, the Warehouse Maintenance Procedures, the Filing Procedures, the Service Commitment Procedures, and the Disciplines for Mediation of Copyright Disputes. These rules and procedures provide incentives for office personnel to remain impartial, transparent and responsible throughout dispute resolution. In the 12 years' operation of Zhihao Market Copyright Administration Office, relatives or friends of the offices' employees have been punished for infringement and ordered to pay over RMB 300,000 in damages.

3.5.1.4 Achievements of the Administrative Offices

The number of printed fabric patterns registered in the Zhihao market increased from 553 in 1997 to 2,098 in 2008. 1,338 works were registered in the first six months of 2009, an increase of 30% over the previous year. A total of 17,442 works were registered in the past 12 years. The number of complaints about infringement increased from 75 in 1997 to 151 in 2008. 75 complaints were received in the first half of 2009, of which 57 were successfully mediated and the infringed received RMB 468,500 of damages. In the past 12 years, 85% of mediated cases resulted in the payment of RMB 8.1105 million in damages to copyright owners and the recovery of RMB 1.08 billion of losses. With direct involvement and strong support of the copyright administration offices, the administrative authorities imposed RMB 401,000 of administrative penalties and the court ordered payment of damages totaling RMB 4,857,000.

In the seven years since the opening of the Dieshiqiao Market Copyright Administration Office, the number of registered bedding patterns increased from 8 in 2002 to 800 in 2008; 420 patterns got registered in the first half of 2009, representing a year-on-year increase of 67%. In total, 5,221 patterns were registered in six years. The number of mediated disputes rose from 1 in 2002 to 36 in 2008, compared with 32 in the first half of 2009 (copyright

owners received RMB 360,000 of damages), and the damages paid through mediation expanded from RMB 8,000 in 2002 to RMB 320,000 in 2008.

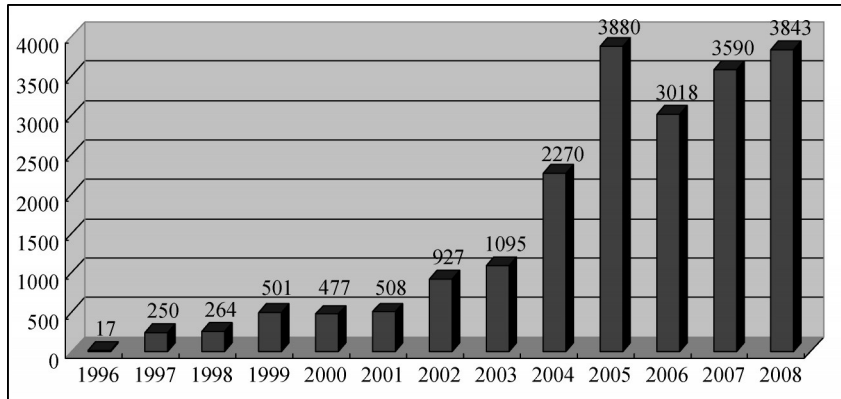
Chart VI: Summary of Patterns in the Two Markets in 2004-2008

	Item	2004	2005	2006	2007	2008
Zhihao market	Patterns traded (pcs.)	15,000	20,000	30,000	40,000	60,000
	Design R&D personnel (%)	6.1%	6.6%	7.1%	8.2%	9.3%
	Number of works designed	20,000	30,000	30,000	40,000	40,000
Dieshiqiao market	Patterns traded (pcs.)	20,000	26,000	30,000	35,000	50,000
	Design R&D personnel (%)	1%	2%	2.5%	2.5%	3%
	Number of works designed	6,200	8,000	9,000	10,000	12,000

Chart VII: Summary of Registered Works and Daily Pattern Copyright Trading in the Two Markets in 1997-2007

Year		1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	Total
Item														
Zhihao market	Registration of works (pcs.)	553	195	866	855	939	1,328	1,573	1,621	1,972	1,574	1,868	2,098	15,442
	Daily copyright trade (pcs.)	0	0	0	0	0	0	0	6	6	23	28	590	653
Dieshiqiao market	Registration of works (pcs.)						8	167	811	1,333	1,126	976	1,100	5,221
	Daily copyright trade (pcs.)						0	11	16	28	42	29	56	182

Chart VIII: Histogram of Registered Works of Visual Art in Home Textile Industry in Nantong City (1997-2008) (Unit: Pieces)



In the premises of the copyright administration offices in the two markets the respective rules and procedures, numerous pattern samples, and dispute mediation schedules are displayed.

The offices combine governmental administration, services and arbitration and mediation which is an innovative step in the development of China's copyright management system. They play a positive role in regulating market activity, establishing a positive business environment, promoting product development, driving local economy and brand development.

3.5.2 Judicial Protection

3.5.2.1 Home Textile Courts

In China, as copyright cases rise to a higher level of complexity than general civil cases, civil disputes over copyright (including infringement disputes, contractual disputes, ownership disputes and all civil disputes involving copyright) are usually handled by people's courts at the intermediate level or above. However, the Supreme People's Court authorizes higher people's courts to designate selected grassroots people's courts to hear civil disputes over copyright in the first instance, where appropriate. In recent

years, the Chinese government has attached more importance to intellectual property protection by formulating the Outline of the National Intellectual Property Strategy. Local governments have also developed their own strategies for intellectual property protection. The IP trial system is developing in order to adapt to the rising number of IP disputes.

Approved and supported by the Supreme People's Court, many courts have now set up separate intellectual property trial chambers. For example, the court in Pudong District, Shanghai is the first "grassroots" court in China to establish an intellectual property division. Now more and more grassroots courts, mainly in municipalities directly under the Central Government, have created intellectual property divisions and this practice has extended throughout China. In some places attempts have been made to reform the IP trial into a three-in-one system combining civil, administrative and criminal cases involving intellectual property.

Jiangsu Province holds a leading position nationwide in the judicial trial of copyright cases, the number of cases closed and in its reform efforts. All the intermediate people's court in Jiangsu have jurisdiction over copyright, and many grassroots courts are empowered to hear copyright cases. However, due to a low concentration level of related cases, no grassroots courts have set up a separate division for intellectual property.

The Intermediate People's Court of Nantong City is one of the earliest intermediate courts authorized to hear intellectual property cases. In November 2007, authorized by the Supreme People's Court, the people's court of Tongzhou City (now Tongzhou District) in Tongzhou City became the first grassroots court in North Jiangsu to have jurisdiction over intellectual property cases. Like the copyright administration department, the courts in Nantong have made remarkable contributions to the legal protection of copyrights in the home textile industry. In 2008, the special protection mechanism created by the Nantong courts to serve the home textile industry was honored as "Nantong Practices" by the Supreme Peoples' Court. To

enhance copyright protection for the home textile market, the people's court of Tongzhou City also established an intellectual property circuit court at the home textile center in Nantong. All intellectual property cases that occur in the home textile center are mediated or heard at the circuit court. Setup of the circuit court helps save much time of affected parties and facilitates their actions.

Since receiving the delegation of jurisdiction over intellectual property cases, the Nantong courts have taken in 1,048 cases concerning intellectual property, with a rising number over years. Many of their practices are used by other courts. For example, in a case concerning copyright in home textile products heard by the Pudong Court in Shanghai, the judge based his order on whether the disputed pattern had originality to constitute a work by referencing the Nantong court's practice of holding the party who denied the originality liable for producing evidence. Since the circuit court was established in Tongzhou, Nantong in 2008, 27 cases have been filed on the spot while 115 copyright disputes have been heard and mediated thus helping increase the efficiency in the market by establishing order and reducing costs.



Photo XXII: Intellectual Property Circuit Court for Home Textiles, located at the 3rd floor of Zhihao Market Copyright Administration Office

Taking into account the particularities of intellectual property protection for home textiles, the circuit court has been responsible for at least five major improvements in judicial oversight of copyright-protected works.

First, the Court has created a rapid response mechanism to provide timely judicial protection for copyright in home textiles. To address issues relating to the loss of evidence in intellectual property cases for home textiles, the circuit court formulated the Interim Procedures for Quick Handling of Intellectual Property Cases Concerning Home Textiles. A “One Hour Response” standard was introduced to handle application for evidence preservation. Under this standard, the process of case filing, police dispatching and enforcement at the site of preservation must be completed within one hour from receipt of application. Services are available on a 24×7 basis. Of the twenty cases for which pretrial evidence has been preserved since May 2008, ten cases were filed at the circuit court immediately after the call was received, with the judgment awarded on the spot and enforced at once. In four cases, evidence preservations were enforced at night or on holidays.

Second, the Court broke down boundaries between administrative divisions to create a single jurisdiction over copyright cases in home textiles. The home textile industry of Nantong is concentrated in the two home textile centers, which are under jurisdiction of Tongzhou and Haimen, respectively, by administrative division. In fact, the two centers are geographically connected and integrated.

Before the circuit court was established, intellectual property cases in the two centers were heard by the Tongzhou People’s Court and by the Intermediate People’s Court of Nantong City, respectively. If a case involved both administrative divisions, the convenience of the circuit court could not be fully utilized. To address the problem, Tongzhou People’s Court proposed to the Intermediate People’s Court of Nantong City that its jurisdiction be extended to intellectual property cases for home textiles that occur in a part of

Haimen. Later the Higher People's Court of Jiangsu Province officially authorized Tongzhou People's Court to hear copyright disputes concerning home textiles in which the defendants are located and the infringement committed in Sanxing Town or Tianbu Town, Haimen. Creating a single jurisdiction over intellectual property cases across administrative divisions provides a uniform judicial protection of copyright for the two home textile centers.

Third, the Court applied summary proceedings to copyright disputes in home textiles in order to improve efficiency. Since intellectual property cases are more complicated and specialized than other civil and criminal cases, the superior court recognized that since the pattern designs of home textiles feature a very short life cycle and centralized distribution, the copyrighted patterns soon lose their advantages if infringements are not contained immediately. In order to provide quick response and timely and effective protection, the Tongzhou People's Court introduced summary proceedings for copyright disputes in home textiles. This practice was affirmed and supported by the superior court. Now the average trial cycle is 15.6 days, much shorter than time required for ordinary judicial proceedings.

Fourth, the Court invited fine art experts as special advisors in order to assist in establishing the discretion of the judges. In disputes over copyright in works of visual art in home textiles, the patterns used in the infringing products are usually not identical to the claimants' works of fine art. Therefore, in addition to intuitive judgment on similarity, the judges must have expertise in fine art. To ensure that judges exercise their discretion more appropriately, the court invites two professors, as special advisors, from the School of Visual Arts, Suzhou University to provide a professional basis for judgment and to establish the judges' discretion. In this way, copyright infringement can be detected through reasonable, impartial judgment.

Fifth, the Court strengthened coordination between judicial efforts and other dispute resolution mechanisms to eliminate contradictions. In order to

settle disputes efficiently, the court gives priority to mediation for a peaceful resolution. The circuit court actively sought comprehensive coordination with the copyright administration office in the home textile market. The two sides entered into a memorandum on coordination in respect of copyright protection for home textiles. Detailed arrangements are made for coordination in the admission of evidence, protective measures, information sharing, judicial supports and mediation-trial combination. Effective collaboration has been established.

As noted above, the copyright administration office actively involves itself in the mediation of court cases, pre-trial mediation and post-trial mediation. 84.85% of intellectual property cases involving home textiles were withdrawn from the court after mediation. Strong judicial supports for the market copyright office's mediation efforts have built the authority of the office. Statistics show that, since November 2007, the market copyright office has mediated 243 copyright disputes and had them resolved before court trial.

3.5.2.2 Comparing Administrative and Judicial Protection

Administrative protection and civil judicial protection each have advantages in resolving copyright disputes. The copyright owners may choose between the two based on the details of the case.

As the last resort for dispute resolution, judicial proceedings have distinct advantages in complicated cases because the judgment of the Court has a higher level of authority. However, judicial proceedings also have weaknesses. First, they place a heavy burden of proof on copyright owners; second, it is difficult for the claimant to collect evidence independently; third, trials are time-consuming, not to say appeals; fourth, the court is always in a reactive position in dispute resolution.

Compared with civil judicial protection, administrative protection has its advantages in the following aspects:

First, administrative proceedings are of a proactive nature conferred by law. Administrative proceedings for copyright protection may begin with

infringement reports by the informed or by detection of clues in market inspection, in addition to receipt of complaints. Also, administrative proceedings allow proactive investigation for evidence collection and preservation when only a few clues are available.

Second, dispute resolution is timely. The administrative authorities may immediately launch proceedings based on clues and take administrative measures against infringers or infringing products in a timely manner, so as to prevent evidence from being destroyed or transferred.

Third, proceedings are simple. The Administrative Punishment Law provides very simple proceedings to facilitate quick resolution of cases. The Measures for Implementation of the Administrative Punishment on Copyright Infringement formulated by the National Copyright Administration in accordance with the Administrative Punishment Law provide provisions on special issues in administrative cases concerning copyright and it details general procedures, thereby further facilitating quick settlement of cases.

Fourth, copyright protection through administrative enforcement is at low or even no cost to copyright owners. As administrative enforcement is a public resource, copyright owners do not need to pay fees in order to file a complaint. The timely response and resolution of administrative enforcement actions make infringement control very cost-effective. Infringement will cease soon after the complaint has been filed, so administrative proceedings are the preferred choice for those eager to contain infringement as soon as possible.

Fifth, the administrative enforcement department may utilize other administrative resources, providing a special advantage in fighting piracy industry-wide. A few years ago, due to the low public awareness of the Copyright Law, stringent enforcement measures stirred wide dissatisfaction among the public. Therefore, law education and publicity became necessary before law enforcement. During its first intervention in a copyright dispute in the local printed fabric market, the copyright administration department of

Nantong provided lectures on the Copyright Law to major market players. The Nantong authorities also selected market managers and distributed the Notice on Protecting Copyright in Patterns of Printed Fabrics to each shop and stall under coordination by the government. This was done for the purpose of smoothing administrative enforcement.

Despite these efforts, enforcement can trigger a dramatic confrontation with local people. The public security authority had to store seized infringing fabric products at the local police station to get an early case closed following which a fine was imposed on the infringer and the income derived from the infringement was confiscated.

Claims are mostly divided in two categories: (1) to stop infringement and (2) to request damages. In the first case administrative measures are cost efficient and are frequently chosen. In the second case administrative procedures are resorted to when copyright owners have difficulties to collect evidence on the infringement on their own and choose to go for mediation. Mediation by the administration authorities also works well in conjunction with the threat of separate judicial action. Mediation will place pressure on infringers and increase the possibility of successful mediation. This is because a failed mediation effort may bring infringers into judicial proceedings that would potentially subject them to payment of civil damages, in addition to administrative penalties. For these reasons, it seems obvious that the combination of administrative penalty with the threat of civil damages is more effective than direct payment of damages under mediation. For infringers, it is more economical to accept mediation by administrative authorities and to request the copyright owner to withdraw the administrative complaint.

Administrative mediation works under the basic principles of the Copyright Law, without the possibility of adding to the infringers' liability for damages. The mediation efforts of the administrative enforcement department are clear of time and space restrictions, making it more efficient in

dispute resolution. Thus, after administrative investigation, copyright owners and infringers both are willing to receive mediation from administrative authorities, a major reason for the high success rate of mediation by the copyright administrative office.

Nevertheless, administrative proceedings have no advantages in cases with complicated facts other than simple piracy. For example, the administrative authorities are not empowered to punish infringements upon the adaptation right in pattern works under the Copyright Law.

In Nantong, administrative authorities intervened in copyright protection and established the practices used for administrative enforcement before those practices were introduced into the civil judicial proceedings.

One such practice is the identification of infringing products. In many circumstances, infringers make certain alterations when copying the copyrighted patterns. How to determine the nature of such alterations requires assistance from people with professional backgrounds. With support from the copyright authority of Nantong, an expert committee composed of artists was established to identify products suspicious of pirating printed fabrics, and vote on the differences between copyrighted works and those suspicious of infringement. Based on its professional opinion, the enforcement authority finally decides on piracy. The practice was later carried forward in judicial trials and plays an irreplaceable role in identification of infringement.

Another such practice centered on determining the amount of damages for infringement. The law provides that the administrative penalty is no more than three times the illegal turnover or, if the illegal turnover is hard to determine, no more than RMB 100, 000. Administrative authorities found in investigation that the minimum order placed for printed fabrics was 3,000 m. On the basis of this trade rule, the administrative authorities determined the illegal turnover at the amount corresponding to 3,000 m even if the infringing fabrics were less than 3,000 m. Subsequently, the administrative authorities and local copyright administration offices adopted this criterion in civil

mediation. In addition, this practice has also been adopted by courts when trying individual cases in judicial proceedings.

The copyright administration department and the court cooperate to leverage each other's strengths. The court handles complicated cases and shares experience with administrative authorities and with copyright offices. It also adopts administrative authorities' proven practices in the determination of infringement, which helps enhance the authority of administrative enforcement. By contrast, administrative authorities give broad publicity to the results of judicial trials, thereby increasing the influence of individual cases among the public, and raising public consciousness of compliance with the Copyright Law. With their respective advantages fully utilized in the market, the administrative protection and judicial protection systems work together to increase the efficiency and effectiveness of copyright protection in the Nantong region and elsewhere in China.

3.5.2.3 Infringement Complaints

Since the copyright administration office was established, the number of complaints filed with the office generally trended upward. However, in both markets, the complaint rate has fallen in very recent years. For example, the number of complaints about infringement peaked in 2007 and 2006 in Zhihao market and Dieshiqiao market, respectively, and then dropped (see the table below).

Chart IX: Summary of Copyright Cases in Chuanjiang Town Copyright Administration Office, Tongzhou (1997-2007)

Year Item	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	Total
Complaints (cases)	75	85	123	116	122	105	109	141	122	152	186	151	1,487
Works identified (pcs.)	0	0	0	20	25	32	40	41	28	72	98	85	441

续表

Year Item	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	Total
Seized cloth (meters in ten thousands)	28	30	20	35	30	33	36	40	18	16	18	20	324
Mediation (cases)	75	85	123	116	122	105	109	141	100	130	166	135	1,362
Damages paid	15	18	17	20	48	63	60	53	82	121	132	115	744
Destructed pictures (pcs.)	50	60	100	115	122	105	109	140	80	110	150	110	1,251
Seized pictures	0	0	0	1	3	4	6	8	6	8	10	6	52
Administra- tive penalty	2.5	5	1	2	3	3	4	6	5	2	3	3.6	40.1
Judicial	0	0	0	0	0	0	2	7.2	12	166	186	112.5	485.7

Chart X: Summary of Copyright Cases in Sanxing Town Copyright Administration Office, Haimen (1997-2007)

Year Item	2002	2003	2004	2005	2006	2007	2008	Total
Complaints (cases)	1	47	108	172	192	65	40	625
Works identified (pcs.)	0	0	2	3	7	5	5	22
Seized finished products (cases)	1	50	110	180	200	70	40	651

续表

Year Item	2002	2003	2004	2005	2006	2007	2008	Total
Mediation (cases)	1	38	84	160	170	63	36	552
Damages paid (in ten thousand yuan)	0.8	8	21	36	96	56	32	249.8
Judicial (in ten thousand yuan)	0	5	18	26.6	80	30	4	163.6

3.6 The Invisible Umbrella

There is an invisible umbrella over the Nantong home textile industry with its abundance of diversified home textile fabrics and finished products, and its huge base of loyal customers – copyright protection of home textile products. It has been said in Nantong that copyright protection is the “life line” for the home textile market. Copyright protection increases the home textile manufacturers’ resolution and confidence to spend on innovation. Copyright protection represents a core force that safeguards their interests, protects their innovations and promotes sound development of home textile products and the Nantong home textile markets.

Part *FOUR*

Copyright Protection and Market Development



► 4.1 Copyright Protection as Business Strategy

By the 1990s, the Nantong home textile markets had been transformed into a modern and fully developed supplier of home textile products to the world. Home textile producers in Nantong were now able to utilize local advantages in resource supply, low transaction costs and flexible tax policies in order to maintain low prices while continuing to invest in product development. The Nantong copyright system had itself become perhaps the most important advantage available to local producers of home textile products. Improved copyright protection in Nantong has effectively helped producers to update and upgrade their products. As a result, Nantong textiles have achieved a large measure of success in both the domestic market and in international markets as well.

In comparison to many high tech products, the value-added by home textile products is relatively low. Moreover, entry into new geographic markets is generally easy. Nevertheless, even in these circumstances, copyright protection promotes core competitiveness among all Nantong home textile producers. Because producers are confident that they can capture a return on their product innovations, Nantong home textile producers can remain confident that they can sell product even if numerous alternatives exist.

At the same time, copyright protection promotes brand protection. The key to optimize and enhance a brand is to foster the formation of a particular



style for the enterprise's products. In branding strategies, there is generally an emphasis on originality, diversity and innovativeness. Since copyright protection increases the return on product originality, diversity and innovativeness, copyright protection enhances branding strategies.

▶ 4.2 Investing in Home Textile Design: The Example of Gold Sun

In the two major markets in Nantong, there are more than 100 design houses and over 3,000 designers. New patterns, new materials and new designs emerge from these designers on a regular basis. In order to promote home textile design as a complement to production/operation in the home textile industry on September 25 and 26, 2008, the township government and Home Textile Mall Administration Committee jointly held the first International Home Textile Draft Drawing Trade Show at the Fortune Center of the Home Textile Mall in Nantong, China. More than 150 famous home textile design houses and studios from both inside and outside China were invited and over 3,000 home textile material traders and manufacturers also participated into the trade show. During the trade show, all the stalls and accommodations were provided for free. The Zhihao Market Copyright Administration Office-“National Modeling Unit of Copyright Protection” - provided free services including the provision of legal consulting advice and work registrations, so as to ensure the protection of participants' drawings' copyright against infringement. ^①

Since 2006, the People's Government of Nantong City, China Textile Industrial Association, and the China Home Textile Industrial Association have held the “Dieshiqiao·China Ethnic Home Textile Design Contest” 4 times in a row at the Dieshiqiao Market in Haimen. This show generally attracts outstanding home textile product researchers and designers from

^① Refer to: <http://www.chinajfpp.com/default.php?do=newslist&event=view&ids=1291>.



many parts of China. Along with the increasing awareness of copyright protection, a new copyright trade model - trade of drawings, has emerged in the market. In 1997, the first national Art Drawing Research and Design Institution was established at the Zhihao Market. To date, there are more than 2, 000 professional designers in the market. Prior to 2008, the Market Copyright Administration Office organized three small scale drawing trade shows, based on the experience accumulated. In 2008 and 2009 were held two nationwide drawing trade shows at the home textile market. More than 30 thousand drawings were exhibited which resulted in over 3, 100 deals worth over RMB 2.5 million.

Chart XI: Consolidated table for numbers of innovative enterprises in the two major markets 2004—2008

Market	Project Name	2004	2005	2006	2007	2008
Zhihao market	Professional Studio(number)	15	30	45	60	80
	Enterprise Studio (number)	35	50	70	85	100
Dieshiqiao Market	Professional Studio(number)	9	11	15	17	18
	Enterprise Studio (number)	5	6	11	13	25

The importance of the link between product design, product sale and copyright protection can perhaps best be seen through a real world company example. Jiangsu Gold Sun Textile Technologies Co., Ltd. (“Gold Sun”) owns the biggest R&D team in the national home textile industry, under which it owns 4 design houses who specially engage in pattern design, model design and branding strategy, and 1 new product development department who specially engages in the application of new materials and material quality development. Among over 300 employees of the company, more than 120 employees are designers, amounting to over 40% . The new products



designed here offer a variety of product attributes including design patterns such as printing, jacquard and embroider, and materials such as cotton, silk and modal rayon. Newly developed bamboo fiber, milk fiber and soy fiber are also offered.

At Gold Sun pattern design is generally done by manual or by computer design of the designers. Each year, Gold Sun will launch more than 10 thousand new patterns into market. To date, the company has applied over 1,000 copyright and transferred design work more than 2,000 pieces.

In 2006, Gold Sun formed a one-stop shopping service for all design and ancillary needs of home textile customers from R&D for yarn, manufacture process and material functions to pattern and style products design, testing, experiment and sampling.

Gold Sun also established contacts with more than 10 universities including Qinghua University, Donghua University, Suzhou University, Lu Xun Academy of Fine Arts, Tianjin Academy of Fine Arts, and Guangzhou Academy of Fine Arts and it set up university product design laboratories. Gold Sun attracted many outstanding university graduates and its R&D team has grown into more than 140 people. Its R&D has expanded from single material pattern to each step of home textile industry. Gold Sun's home textile design and research institution has at one stroke become the biggest and most diversified R&D team in the domestic home textile industry.

Gold Sun sells its products and services to foreign countries and regions including Europe, the US, Japan, Korea and Australia. Its annual sales revenue amounts to about RMB 500 Million. The company has brought copyright protection to a strategic level, and the General Manager of the company is in charge of copyright work in person. At this stage, the company has registered nearly 800 copyright and transferred copyright more than 1,000 pieces. To quote what the General Manager said, "we have tasted the benefit of innovation with the great government support of copyright protection!"

In recent years, the company has been awarded for more than 20 gold



medals, silver medals and bronze medals in China International Home Textile Design Contest. In 2007, the company received the honor of “Product Innovation Contribution Award” from China Textile Industrial Association. New products that emerge one after another have satisfied the demand of customers and promoted the rapid development of the enterprise. In 2008, the company was successfully listed in “Fortune 500 Chinese Textile and Garment Enterprises”.

The ample pattern drawings owned by Gold Sun normally are not sold individually. The company drives sales of home textile materials by its pattern designs and through the licensing of its copyrights to customers. Normally, a new pattern’s is licensed for 2 years. Such practices have driven the gradual increase of sales in Gold Sun textile materials. In 2008, its domestic sales increase again achieved more than 20%.

In the beginning of 2009, Gold Sun developed new innovations in his marketing and product development efforts. From February 19 to 26, the company held the “First Gold Sun Fashion Design Contest and New Products Show.” At the same time, it issued the “2009/2010 Gold Sun Home Textile Color Fashion Trend”. More than 20 domestic famous home textile enterprises, including Luolai, Shuixing, Menglan, Tanghuang and Shengyu, were invited to be judges. More than 30 million Yuan value orders were placed for their favorite patterns right after the contest was over.

In recent two years, Gold Sun has expanded its sales to foreign countries and has implemented a new developing strategy to focus on both domestic and overseas markets. In terms of domestic sales of textile materials, the company remains committed to “being the biggest home textile supplier.” In 2008, the export and import trade of Gold Sun increased dramatically. Export sales amount to more than 8 million USD. In order to enter into international markets, Gold Sun has also expanded the foreign trade export industrial park according to international standards.

Generally speaking, thanks to over ten years copyright administration,

the size of Nantong Home Textile Market has been increasing continuously. The number of business operators is increasing, the enterprises are continuing growing, and social efficiency and economic efficiency are also keeping enhanced. Again, take Jiangsu Gold Sun Textile Technologies Co., Ltd. as an example, from a strategic perspective, the company focuses on R&D as its core competitiveness and emphasizes on self-created intellectual property right and the protection of same. It has undergone three breakthroughs in its practice of copyright protection.

► 4.3 The Chain of Support Industries

In addition to design firms, in Nantong today, many other local industries provide products and services to the home textile industry. The “chain” of such industries includes textile machine manufacturers and maintenance providers, printing and packaging providers, dyeing and printing companies and others. In addition, the growth of the Nantong home textile markets have fostered the development and prosperity of the local construction industry, the local realty services industry, transportation and logistics services providers (see table below). The markets have also attracted more than 30 intellectual property right agencies and law firms, as well as more than 20 financial and insurance institutions.

Chart XII: Consolidated table for numbers of logistic enterprises in the two major markets 2004-2008

Project Name	2004	2005	2006	2007	2008	Remark
Communications, Logistics and Transportation Enterprises in Zhihao Market (Number)	19	31	54	62	80	Directly to 31 provincial capital cities and 217 local cities. More than 3,000 cargo trucks available.
Communications, Logistics and Transportation Enterprises in Dieshiqiao Market (Number)	34	38	43	45	45	



Chart XIII: Consolidated table of social and economic development data for Chuan Jiang Town of Nantong City, 2004-2008

Item		2004	2005	2006	2007	2008
Total local output value(10 thousand)		239,474	234,920	298,396	361,481	482,836
Total industrial output value (10 thousand)		813,586	1,326,557	2,016,000	1,911,211	1,880,000
Total service industry output value (10 thousand)		82,174	80,700	108,471	143,863	211,947
Textile and garment industrial total output value (10 thousand)		691,540	1,127,700	1,714,000	1,624,700	1,598,400
Home textile industrial total output value (10 thousand)		691,548	1,124,920	1,711,584	1,626,440	1,599,886
Textile machine manufacture industrial total output value (10 thousand)		5,200	6,000	6,500	7,000	7,200
Financial Income	Gross Income (10 thousand)	4,422	13,927	20,485	29,229	28,350
	General budgeting income (10 thousand)	1,811	5,645	8,126	13,784	12,620

Chart XIV: Consolidated table of social and economic development data for San Xing Town of Haimen City, 2004-2008

Item		2004	2005	2006	2007	2008
Total local output value(10 thousand)		193,744	302,920	409,307	470,000	502,100
Total industrial output value (10 thousand)		651,747	1,295,464	1,632,088	2,203,339	2,511,403
Total service industry output value (10 thousand)		72,000	89,000	100,000	116,400	140,400
Home textile industrial total output value (10 thousand)		107,100	133,100	156,100	175,200	191,200
Textile machine manufacture industrial total output value (10 thousand)		3,105	3,278	4,351	7,540	8,000
Financial Income	Gross Income (10 thousand)	12,500	17,500	19,200	20,100	22,500
	General budgeting income (10 thousand)	2,933	6,124	6,506	6,610	8,008



► 4.4 Pattern Protection and Pattern Development: The Example of Jiayusi

The factors influencing market development as identified by the Zhihao Market Copyright Administration Office as well as through surveys of market operators are set forth in the table below (chart XV). Copyright protection was seen by respondents as the most important factor.

Copy-right protection	Reason-able charge	Decent Envi-ronment	Social Security	Favor-able policy	Associ-ated facility	Com-munica-tion orders	Busi-ness facility	Bone fide busi-ness	Price compe-tition
90%	85%	85%	80%	80%	75%	70%	70%	68%	60%

But survey results only reveal so much. The real importance of copyright protection in Nantong can be most clearly seen in the practices of actual businesses. For example, Nantong Jiayusi Textiles Group Co., Ltd. is one of the enterprises that grew quickly through copyright protection in the home textile market. It is a diversified manufacturer of modern home textile fabrics and finished products engaging in development, processing and marketing. Its customers include leading brands in China such as Menglan, Mendale, Boyang, Shuixing and South Bedding, as well as foreign customers in Europe, Middle East, Southeast Asia, Russia and Ukraine. The company recorded RMB300 million in sales in 2008, including USD21.81 million in exports.

The company values creativity and now possesses over 1,800 certificates of copyright and 30 patents. Its archive of works occupies a space over 1,400 and consists of 6 full-time employees, with a collection of over 30,000 design sketches and product samples made since its establishment. The company regards the development of proprietary intellectual property as the best way to win in domestic and overseas markets. In its early years, the company spent



millions of yuan to establish two specialized design studios in Nantong. It later set up the third Shanghai office, staffed by over 40 professional designers in total. Recently Jiayusi Textiles established the Home Textile Fabric Innovation R&D Center, which received RMB600, 000 of financial support from the provincial foreign trade and economic department and from the provincial financial department.

The company follows a pattern-design-driven operation mode. First, after developing patterns and getting them copyrighted, Jiayusi buys gray cloth and sends it to a customer-designated factory for printing and dyeing,. Finally it delivers printed fabrics to the customer. The company may also directly assign its copyright in patterns. A single customer, Shanghai Shuixing Home Textile, currently buys over RMB10 million worth of printed fabrics and copyrights in about ten patterns from Jiayusi. This mode eliminates the need for self-operated weaving and dyeing plants but it only requires a few R&D staff and managers.

Significantly, Jiayusi has made huge efforts to protect its copyrights since 1997. The company was involved in 6 civil actions on copyright, as claimant in 4 cases and as defendant in 2 cases. It won 5 actions; the remaining one got mediated outside court, resulting in RMB15,000 of damages paid to Jiayusi.

In addition to lawsuits, the company has also filed complaints with the local copyright administration office. 14 complaints were brought in 13 years, with over RMB200,000 of damages awarded through mediation and one infringing manufacturer subjected to administrative penalty by Nantong Municipal Copyright Administration. To better address copyright protection, the company has appointed full-time intellectual property representatives in 2005 to deal with lawsuits, complaints and mediation concerning intellectual property. When appointed, the intellectual property representatives found that 7 traders in the market were selling products pirating 11 patterns that had been copyrighted by the company. After filing complaints with the copyright



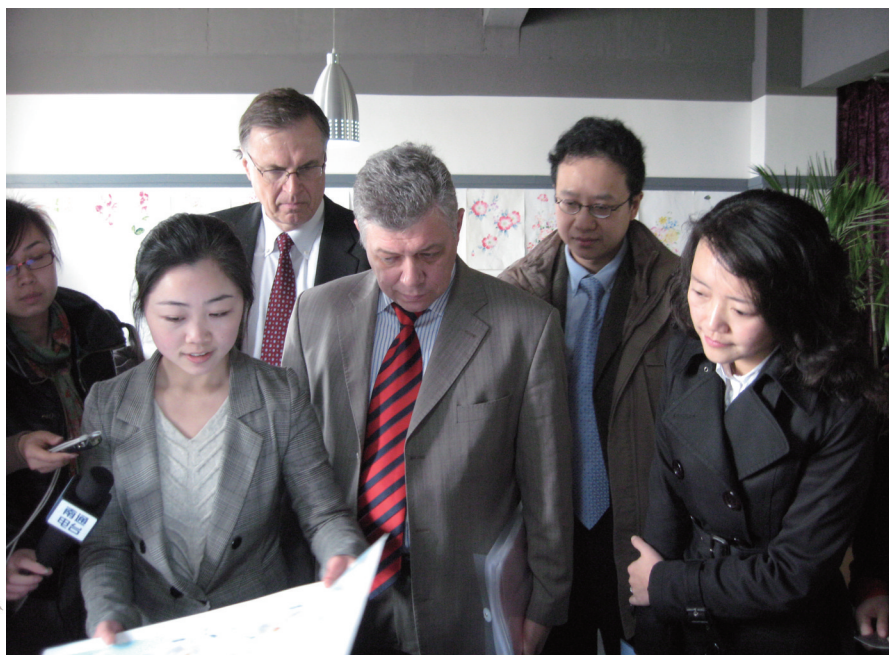
administration office, the company received RMB43, 000 of damages through mediation.

► 4.5 Return of Sanctioned Home Textile Producers to Nantong

In 1998, as the Zhihao Market Copyright Administration Office began to enforce the provisions of the Copyright Laws, certain business operators, who had been sanctioned for copyright infringement by the Office, decided to avoid the Nantong copyright system entirely. By March of 1998, more than 20 operators in the market had transferred their businesses to other provinces where copyright enforcement was far less stringent. However, after more than half a year, these same operators all returned to the Nantong markets.

The basic reason why the operators returned to Nantong was because

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home textile business operators in the other provinces relentlessly copied each other's patterns. The operators were forced to sell their products at much lower prices than they could have earned in Nantong. The return of the sanctioned operators to Nantong provides strong evidence that a local or regional copyright system, like the one in Nantong, can really work. If these operators had been successful in other provinces, they would never have returned to Nantong. The return of these producers to Nantong also highlights the importance of Nantong's geographic and historical advantages which work hand-in-hand with the copyright system.

► 4.6 Dealing with Infringers: The Example of Gold Sun

As noted previously in this report, Jiangsu Gold Sun Textile Technologies Co., Ltd. is one of the large scale backbone enterprises in China Nantong Home Textile Market. It is a consolidated textile group enterprise engaging in home textile material design and R&D, sales and services. Gold Sun is also one of the enterprises within domestic home textile material industry that adhere to branding development and has gained high reputation and become well-known in both domestic and foreign home textile industries. The company's long term business goal is to become the "world's leading material supplier".

In the preliminary phase of Gold Sun's business operations, it was not uncommon to see copies and imitations of the company's designs everywhere, a situation that worsened until it began to have a material impact on the company's businesses and management. With the guidance and help of Zhihao Market Copyright Administration Office, the company set up the enterprise's special copyright protection organization and established partnerships with law firms to litigate against copyright infringement.

Taking advantage of the company's local presence and with the assistance of Copyright Administration Office, if copyright infringement was identified, the company will serve a warning notice for withdrawal from



market for first infringement, i.e. to warn the infringing party that the products sold by such a party infringe the copyright owned by Gold Sun. The company will also ask the shop owner to stop selling such products and to immediately dispose the finished products, if any.

For second time infringement, the company will request the shop owner to immediately cease infringement and will present a claim for losses. In terms of shop owners who repeatedly commit infringement, the company will file a complaint to the Market Copyright Administration Office in accord with the law. The Copyright Administration Office will help the company to preserve evidence and support efforts to mediate this dispute. If the shop owner or the copyright owner doesn't accept mediation, the company will safeguard its legitimate rights and interests through judicial proceedings.

Through the above effective copyright protection measures, Gold Sun have found hundreds of copyright disputes every year in recent years, filed complaints for over 200 cases and brought into litigation for more than 100 cases, of which 90% cases are resolved through settlement and all of which are basically resolved appropriately.

► 4.7 Foreign Investment in the Nantong Home Textile Markets

Since the development of the Nantong copyright protection system, foreign investors from Japan, Korea and the US have established joint venture companies with local enterprises in the Nantong home textile markets. Foreign investment is increasing each year and the number of joint venture companies has also risen every year (refer to the table below). Taiwan Dongdixing Company, which is one of the earliest enterprises that benefited from home textile copyright protection, has invested over 50 million yuan. The export volume of the Jiayusi Textile Co., Ltd. is listed on the top of the foreign trade list in Tongzhou from 2007 to 2008.



Chart XVI: Consolidated table of foreign investment in the two major home textile markets in 2004-2008

Market Name	Item	2004	2005	2006	2007	2008
Zhihao Market	Foreign investment (10 thousand)	1,240	2,040	3,890	4,580	6,080
	Joint venture companies (number)	6	10	15	17	20
Dieshiqiao Market	Foreign investment (10 thousand)	14,000	19,000	20,000	24,000	25,000
	Joint venture companies (number)	13	26	56	66	81

Thanks to the market environment created by copyright protection, the two major markets have also attracted the interest of home textile companies in other regions of China who wish to make invest in Nantong. The number of such enterprises has been dramatically increased in recent years (refer to the table below).

Chart XVII: Consolidated table of the number of enterprises in the two major home textile markets in 2004-2008

Market	Item	2004	2005	2006	2007	2008
Zhihao Market	Number of home textile enterprises	609	752	965	1,327	1,726
	Scaled home textile enterprises (number)	49	80	99	112	114
	Market business operators (number)	703	780	1,120	1,205	1,385
Dieshiqiao Market	Number of home textile enterprises	275	593	632	672	715
	Scaled home textile enterprises (number)	18	22	28	33	52
	Market business operators (number)	2,200	2,300	2,350	2,410	2,511



► 4.8 The “Nantong Experience”: a Model for Other Products and Regions

Nantong has become the capital of international home textile market. In 1997, 90% of the products in market are chemical fiber products and 10% is mediate or wide cotton products. In 2001, over 90% is pure cotton, silky cotton or pure silk products (among which 50% is high-count and high-density worsted material) and 10% is chemical fiber. In 2008, it has more than 80,000 patterns. The two major markets have become busy trading ports attracting both domestic and foreign traders and self-organized pattern copyright exchanges. The first thing that domestic and foreign businessmen ask is about copyright protection. The leaders of Chuan Jiang Town said, with deep feeling, that “copyright administration is the lifeline for development of Zhihao market, which we should keep reinforcing and will not weaken.” As said by leaders in San Xing Town that, “we cannot guarantee there is no infringing product in Dieshiqiao Market, but we can guarantee to carefully exam each complaint of infringement and carefully investigate and handle each case.”

To date, the copyright administration in the two major markets exhibits a good trend of “two increases and three decreases”. As reported by the copyright administration offices in these two markets, in 2008, totally they were 2,898 fine art design patterns registered, which increased 2%; 646 copyright transactions, which increased 1,000%; 191 complaints recieved, which decreased 31% and 171 copyright disputes settled, which decreased 34%. It fully demonstrates that the enhancement of copyright protection and improvement of copyright administration system in the textile market have protected the market innovation, stimulated the passion of creation in the society and meanwhile effectively suppressed the occurrence of copyright infringement.



The successful practice of local intellectual property right protection also attracts a great deal of domestic and foreign traders. Plenty of domestic and foreign well-known home textile enterprises all come to Nantong one after another. Domestic well-known brands such as Hengyuanxiang, Bosideng, Mingchao, Shanshan, Mengjie, Lacoster, Fuanna, and Hongdou all come to Nantong and established its own production and sales bases. In the well-known brand section of Dieshiqiao Market, almost all foreign and domestic famous brand home textile products are gathered and exhibited.

The success of these two major home textile markets in Nantong in copyright protection not only draws the interest of coterie in the home textile industry (for example, Keqiao China Light & Textile City, Shaoxing Zhejiang paid several visits to Nantong for surveys) but also attracts a couple of big scale professional markets both inside and outside the same province to borrow the Nantong experience.

For instance, copyright bureaus in Jiangsu Suzhou and Lianyungang took the market management of Suzhou embroidery market and Donghai crystal market respectively to visit Nantong, which based on the Nantong experience established a copyright administration office and a work registration office respectively, taking into consideration the reality of copyright protection of local folks art work. Guangdong Province Copyright Bureau organized relevant township management of Zhongshan city for survey and study in April 2008, which planned to establish copyright protection institution for illumination market to provide copyright protection to illumination design patents.

In April 2008, China Light & Textile City, Shaoxing Zhejiang established the Printing Cloth Industrial Association ("PCIA"). PCIA currently owns more than 110 home textile enterprises members which have influence in the local market. PCIA recruited Mr. Lu Shibiao, the former director of copyright administration office in Zhihao Market who had retired,

to be the director of PCIA Copyright Office. Lu Shibiao makes use of his ample experience in grassroots copyright administration and together with local government and association principals, established the copyright model which is of industrial self-discipline and safeguard for innovation. Taking into consideration the difference of economic systems and developing models between Jiangsu province and Zhejiang province, they didn't simply copy the Jiangsu model but proposed the copyright protection principles of "self—innovation, self-discipline for safeguarding rights, developing in harmony, and stable development" by combing the advantages of Zhejiang province in private economic development and the strong desire of business operators in terms of protecting intellectual properties, with the strong support of Zhejiang Provincial Copyright Bureau and local governments and judicial authorities and by borrowing the Nantong experience in a scientific fashion.

Zhejiang Provincial Copyright Bureau and Shaoxing Township People's Government further reinforced the copyright protection in the Light & Textile City, issued the first township level Measures regarding Intellectual Property Protection in the country and established the township intellectual property leadership team as well as its office. The office is set up at the township general office for industry and commerce and provides coordination and guidance to PCIA in terms of copyright protection work. Zhejiang Provincial Copyright Bureau authorized the PCIA Copyright Office to carry out copyright registration for printing cloth artistic work. In 2000, more than 2,000 pieces of members' work have been registered, more than 2,000 pieces drawings are imported for members, and more than 200 deals are closed.

The PCIA Copyright Office also provides services with members in terms of complaint evidence collection, mediation of infringement dispute, settlement of compensations, determination of copy and infringement and litigation related services. PCIA promotes and publicizes Copyright Law and has signed with each member the Agreement to Perform Industrial



Self-discipline and Letter of No Infringement. It also repeatedly amended and improved the Industrial Self-discipline Treaty to prevent infringement by means of reaching agreement with participants on compliance in professional ethics. The PCIA implements the principles of “focusing on cease of infringement and supplemented by compensation of losses”, emphasizes on preventing potential infringement at the origin of printing factories. In 2008 more than 20 infringement cases are stopped at primitive stage. After the mediation of PCIA, the infringement is ceased and the losses of and emotional harm to members are minimized. A social atmosphere of “being proud of innovation and being ashamed of infringement” is formed preliminarily.

The successful operation of this model will enable the grassroots copyright administration work of China home textile industry to reach a higher level by means of innovation in work method, based on the “Nantong experience” and taking into consideration local actual innovation system. As it is relatively close to the self-discipline model of international industrial associations, it will have greater development.

In April of this year, Jiangsu Copyright Bureau, Zhejiang Province Copyright Bureau and Shanghai Copyright Bureau signed the Changjiang Delta Copyright Protection Agreement, whereby Jiangsu, Zhejiang and Shanghai will jointly work in 10 areas and reinforce cooperation, including work registration and combat against infringement. Therefore, with the strong government support, Jiangsu and Zhejiang, the two provinces with strongest economy in China, will have greater room for cooperation in terms of enhancing home textile market copyright protection and services and jointly combating copyright infringement.

As far as we know to date, copyright protection of home textile markets in other provinces in China is basically absent. Market copyright infringement is yet to be effectively prevented. If this cannot be changed, it will



unavoidably become the obstacle for the healthy and orderly development of home textile industry.

► 4.9 Summary and Conclusions

Nantong's century-old light and textile industry now drives economic growth in the entire region. In Nantong, copyright protection is now the favored path to economic development. Its experience can be summarized as follows:

First, a reform and opening policy without central planning can increase productivity, boost the economy and improve people's lives. Nantong's home textile industry started as private unregulated businesses and has developed into a regulated industry in which the government is also involved.

It operates in an orderly manner and keeps growing and improving. The industry has also benefited fully from the adherence of China's governments at all levels to the reform and opening policy. Economic development has been made a top priority and an economic development policy is being implemented effectively. Thus, the Nantong home textile industry avoids the restrictions of a planned economy, implements the reform objectives driven by the market economy, takes into consideration the local reality of the home textile industry, promotes open-mindedness, and creates new working approaches, models and enterprise management systems. During the continuous upgrade of the industrial structure, the focus has been on the research and innovation of products and the improvement of quality. Every effort has been made to build up the industrial chain, which means that the value-added of textile products has continuously increased and has improved the overall market quality. The rise in supply on the domestic market shows that the home textile industry is keeping up with the trend of economic globalization, consolidating its position in the international market and looking for advantages and opportunities in global competition, taking into



account sustainable and scientific developments based on both external and internal developments in order to kick start a virtuous circle. The economy has grown rapidly, the market continues to prosper and people's quality of life has improved year by year.

Second, the successful introduction of the intellectual property protection system has boosted market prosperity and product innovation. The successful use of the copyright protection system and mechanism for Nantong home textile products and the positive results it has produced have proven the effective implementation of China's intellectual property strategy. The People's governments at all levels in Nantong have fully realized their role to support and guide the industry and effectively use system innovation for intellectual property to support and protect the copyright-based industry. They support the innovation of products and enterprises, build up the intellectual property system that is aimed at enterprises—driven by the market and combined with R&D, production, communications, marketing and sales—and stress the importance of creating new brands. They offer advice to enterprises on increasing investment for product innovation and foster high-level innovation. Many supporting industries have gradually formed around the Nantong home textile markets, which has greatly stimulated workers to develop new products based on foreign and domestic market demands. Nantong now offers high quality products and creates competition on the domestic market. There are considerable advantages to adopting intellectual property standards, which have become important measures in exploring the market and improving enterprise competitiveness. The governments support enterprises with regard to manufacturing and owning copyrighted products, which are their own creations based on original, consolidated and imported creations. They also help launch these innovative and unique products onto the market in timely fashion and open communication channels for these products both inside and outside China.

Intellectual property rights have led to productivity and Nantong's home textile industry has become the undisputable flagship in China's domestic textile industry. Nantong's home textile industry also keeps updating concepts and adjusting business models to keep up with international competition, which has meant that its economic strength has been boosted and its scale and influence have grown.

Third, copyright protection of home textile products provides a platform for China's home textile copyright trade, and creates the conditions and lays foundations for the establishment of an export-oriented economy and the shift from the services and commodity trade to the intellectual property trade. Against the background of economic globalization and a unified regional economy, global trade and investment are active and have brought great opportunities and room for growth for Nantong's home textile industry. Nantong's home textile industry uses domestic and investment funds to stimulate commodity trade and grow. It also uses these funds to explore the group advantages of using highly innovative and talented people, turning intellectual property into a service trade, developing intellectual property trade, building the platform for copyright transactions and striving for a bigger say on the international stage. Haimen Dieshiqiao Market held the "Ethnic Home Textile Design Contest" for four consecutive years and promoted a series of outstanding home textile works, which incorporated more international and fashionable elements while keeping distinct national elements. This has reflected the remarkable ability of Nantong's home textile products to move with the times. Most of the works have become popular on the international market and are now traded on foreign markets. Thanks to its outstanding R&D and design capacities, Haimen Mingtian Home Textile Products Co., Ltd. has become the authorized manufacturer for Shanghai Expo 2010. Nantong Jiayusi Company generated RMB300 million (roughly USD45 million) in both domestic and foreign sales, of which USD 21,812,900 came



from foreign trade, amounting to roughly half of its entire revenue. The success of the textile enterprises relies on taking on the market and winning market shares based on their intellectual property. Early in 1999, Nantong held the Taiwan Fair for Masters in Arts and Crafts, which was a pilot project for the trading of copyrights. In June 2006, Zhihao Market officially listed and established the first farmers' copyright exchanges in the country. The copyright exchanges set up a database of patterns, which contains more than 10 thousand patterns from which both domestic and foreign customers can choose. Tongzhou Zhihao Market successfully held the first international fair for prototype drawings in 2008 and the fair in 2009 was an even greater success. It attracted more than 75 exhibition participants and exhibited existing patterns for printed cloth. In addition, 8,000 purchasers came for animated designs, software designs and design printers, with over 30 customers from Brazil, Japan, Jordan, Korea, the UK and US, who came to trade in prototype drawings. The overall turnover of the two-day fair amounted to more than RMB1.5 million. It is clear from the facts that copyright protection in the home textile industry has greatly boosted transnational and transregional communication between production units. The copyright protection system and mechanism have been successfully established and have since made considerable progress, and attempted to establish the operational model of international intellectual property trade, set up an international copyright trade platform, form a professional network for foreign trade services and strengthen the core competitiveness of home textile products.

Fourth, the copyright protection system and mechanism must be established following scientific, regulated and strict procedures set up in line with practices, so that the practices and services under the copyright protection system can gradually take shape and that copyright protection can be systematically guaranteed. In terms of home textile products such as



printed cloth and bedding, innovative and unique patterns are vital. Along with the continuous growth of the market, intellectual property rights for pattern designs of home textile products have gradually become the core area for competition in this industry. Business operators in the market often face the dilemma: do you protect your own patterns at the expense of forgoing the right to copy the patterns of others? Government agencies are actively seeking an effective measure to regulate and administrate the irregularities in the home textile market. After talks, both sides jointly chose the path of copyright administration and protection. Copyright protection and administration of the home textile industry have been in place for 13 years and have yielded considerable results. Copyright administration for the home textile industry combines civil, administrative and legal measures. The administrative and legal measures are connected and integrated through reinforced cooperation. The Local Party Committee and Government have put great emphasis on the copyright protection of home textiles; invested a great deal of labor, resources and funds; reinforced the construction of copyright protection institutions and teams; set up a Copyright Protection Office and an Intellectual Property Court in convenient locations; and enhanced the position and image of copyright protection. Copyright protection means respecting intellectual work; especially, works that have a unique style and whose trends require greater protection. Stimulation of the business operator's activity to develop patterns and foster the emergence of new categories and patterns is also necessary. More R&D in design improves product quality, market performance and the sustainable development of the home textile industry. Enforcement of copyright law must be fair, impartial and transparent. Everyone is subject to the same laws, regulations and social treaties, and the principle of impartiality shall be respected. The social trust placed in the administrative enforcement of copyright protection is also strengthened and this has created a positive environment in which

administrators follow professional ethics and business operators do business according to the law. Copyright protection must adapt to market needs and economic development, keep room for growth and improved services and administration, promote the development of copyright trade, and enable the home textile industry to go beyond China's borders and enter the world market.



Appendix I

► The source of the charts and photos in the Investigation Report

Chart I to Chart IV: *the Statistic Handbook of Nantong City in 2009*, by Nantong Statistics Bureau.

Chart V: *the Statistic Handbook of Nantong City in 2009*, by Nantong Statistics Bureau. Haimen Statistics Office and Tongzhou Statistics Office.

Chart VI: Zhihao Market Copyright Administration Office and Sanxing Copyright Administration Office.

Chart VII to Chart VIII: Nantong Copyright Association.

Chart IX to Chart XII: Zhihao Market Copyright Administration Office and Sanxing Copyright Administration Office.

Chart XIII: the Government of Chuanjiang Town, Tongzhou District.

Chart XIV: the Government of Sanxing Town, Haimen City.

Chart XV: Zhihao Market Copyright Administration Office.

Chart XVI: Government of Chuanjiang Town, Tongzhou District, and the Government of Sanxing Town, Haimen City.

Chart XVII: Industrial and Commercial Office of Chuanjiang Town, Tongzhou District, and Industrial and Commercial Office of Sanxing Town, Haimen City.

Photo I to IX, XIII to XIV, XX to XXI: taken by Wu Qiang.

Photo X to XII, XVII to XIX: provided by Jiangsu Gold Sun Textile Technologies Co., Ltd.

Photo XV to XVI: taken by Gu Xiang.

Appendix II

► The List of Home Textile Enterprises Investigated

Name of the enterprise	Address	Person Responsible	Phone Number
Jiangsu Lansiyu Home Textile Co., Ltd.	No. 11, Zhihao Industrial Park A, Chuanjiang Town, Tongzhuo District	Yu Jianhui	13506288000
Jiangsu Baoman Bedroom Products Co., Ltd.	No. 2, Zhihao Industrial Park, Chuanjiang Town, Tongzhuo District	Lu Weizu	13801482730
Nantong Jiayusi Textiles Group Co., Ltd.	Zhihao Industrial Park, Chuanjiang Town, Tongzhuo District	Yu Jinsu	13901468928
Jiangsu Gold Sun Textile Technologies Co., Ltd.	Gold Sun Mansion, Zhihao Industrial Park, Chuanjiang Town, Tongzhuo District	Yuan Hongbing	13906294393
Jiangsu Mengzhiyu Bedroom Products Co., Ltd.	Zhihao Industrial Park E, Chuanjiang Town, Tongzhuo District	Hu Hongxing	13906288771
Shengfudao (Nantong) Textile Technologies Co., Ltd.	Zhihao Industrial Park, Chuanjiang Town, Tongzhuo District	Huang Huibiao	13962858398
Nantong Kairui Home Textile Products Products Co., Ltd.	Jiangzao Industrial Park A, Tongzhuo District	Wu Weibing	13901489838
Nantong Ton Desing Industrial Co., Ltd.	Fortune Center, Zhihao Industrial Park, Chuanjiang Town, Tongzhuo District	Lin Zongwen	13773665333
Nantong Lixin Industrial Co., Ltd.	Zhihao Industrial Park, Chuanjiang Town, Tongzhuo District	Yang Huisong	13801482480
Tongzhou Meilihua Bedroom Products Co., Ltd.	Chuanjiang General Industrial Park, Tongzhuo District	Chen Zhong	13809083033
Jiangsu Dadao Machinery Group Co., Ltd.	Haimen Industrial Park	Shi Qianxin	13906281097

续表

Name of the enterprise	Address	Person Responsible	Phone Number
Jiangsu Mingchao International Trade Co., Ltd.	Haimen Industrial Park A	Hu Mingliang	13388658888
Nantong Zhuotai Home Textile Research and Development Center Co., Ltd.	No. 12 Dadao Road, Sanxing Town, Haimen City	Zhang Jian	13906280708
Bestwish Home Textile (Nantong) Co., Ltd.	Haimen Industrial Park	Yang Hua	13906281303
Jiangsu Fanrenju Textile Products Co., Ltd.	Haimen Industrial Park A	Gong Jie	13806288810
Jiangsu Tianma Textile Products Co., Ltd.	Haimen Industrial Park	Zhao Fei	0513-82282918
Jiangsu Meiluo Home Textile Products Co., Ltd.	Haimen Industrial Park A	Qin Peng	13806281400
Haimen Jinbo Home Textile Products Co., Ltd.	Haimen Industrial Park B	Qiu Qianbin	13951333665
Haimen Tomorrow Home Textile Products Co., Ltd.	The First Phase of the Building of DieshiQiao International Home Textile City	Wang lingjie	13962875777
Jiangsu Tianfa Home Textile Products Co., Ltd.	Haimen Industrial Park A	Wu Zhongxin	15152891777

Appendix III

► **List of well-known brands and enterprises in the two major home textile markets in Nantong**

List of “China Well-known Brands”

- 2007 “Xing Yuan” silk quilt of Xing Yuan Cocoon Silk Group Co., Ltd.
2006 “DD” towels of Nantong Da Dong Co., Ltd.
2005 Luo Lan beddings (series and associated products) of Shanghai LuoLan Home Textile Co., Ltd.

List of “Jiangsu Well-known Brands”

- 2008
Nantong Sidefu Textile and Deco Co., Ltd. Sidefu hotel textile products
Nantong Shulian Home Textile Co., Ltd. Shulian beddings
Jiangsu Ganglong Textile Co., Ltd. Ganglong beddings
Nantong Dadao Textile Co., Ltd. Yiren Dao beddings
Nantong Jumenglai Home Textile Co., Ltd. Jumenglai beddings
Nantong Mengfei Home Textile Co., Ltd. Mengfei beddings
Nantong Ainuo Home Textile Co., Ltd. Ainuo beddings
- 2007
Haimen Sanxing Garment Co., Ltd. Jinyouyuan down quilt
Jiangsu Mengzhiyu Bedroom Products Co., Ltd. Mengzhiyu beddings
Jiangsu Sanlian Home Textile Co., Ltd. Sanlian beddings
Jiangsu Violet Home Textile Co., Ltd. Violet beddings
Nantong Yaping Home Textile Co., Ltd. Yaping beddings
Jorden (Nantong) Textile Co., Ltd. Jorden beddings
Shengfudao (Nantong) Textile Technologies Co., Ltd. Shengfudao beddings

Bestwish Home Textile (Nantong) Co., Ltd. 2006	Bestwish beddings
Nantong Dadong Textile Co., Ltd.	“DD” towels
Jiangsu Baoman Bedroom Products Co., Ltd.	Baoman beddings
Jiangsu Tianfa Home Textile Co., Ltd.	Tianfa beddings
Jiangsu Lansiyu Home Textile Co., Ltd.	Lansiyu beddings
Jiangsu Kaisheng Home Textile Co., Ltd.	Kaisheng beddings
Jiangsu Dadao Machinery Group Co., Ltd.	Dadao multi-tasking computer-aided

Sewing machine

2005	
Jiangsu Violet Home Textile Co., Ltd.	Violet beddings
2004	
Nantong Dadong Textile Co., Ltd.	“DD” towels
Nantong Luolai Bedroom Products Co., Ltd.	Luolai beddings

List of enterprises awarded “National Inspection-free Products” in

2007

Haimen Meiluo Beddings Co., Ltd.
Shanghai LuoLan Home Textile Co., Ltd.
Jiangsu Baoman Bedroom Products Co., Ltd.
Jiangsu Kaisheng Home Textile Co., Ltd.
Jiangsu Lansiyu Home Textile Co., Ltd.
Jiangsu Mengzhiyu Bedroom Products Co., Ltd.
Jiangsu Sanlian Home Textile Co., Ltd.
Jiangsu Violet Home Textile Co., Ltd.
Jiangsu Tianfa Home Textile Co., Ltd.
Jorden (Nantong) Textile Co., Ltd.
Shengfudao (Nantong) Textile Technologies Co., Ltd.

Appendix IV

► **Syllabus (Headnote) of Civil Judgment 1 of Tongzhou People's Court of Jiangsu Province**

Brief Summary of the Civil Judgment 1 of Tongzhou People's Court of Jiangsu Province:

In this case, the plaintiff Nantong Kunqing Company, the Plaintiff filed suit against Bao Qingmeng and Shanghai Phoenix Blanket Industrial Company, the Defendants, for infringement of its right to reproduce and distribute its two pictorial works, and requested for judgment for compensation of its economic damages. The Third Party Zhaoqing Kunqing Company, as the parent company of Nantong Kunqing Company, participated in the litigation as the original copyright owner of the work involved in this case. There are three key points in this case: I. Whether the design involved in this case constituted a work; II. who had the copyright to the work involved in this case; and III. how to subject the infringer to the liability for infringement. The Court held after trial that the design involved in this case constituted a pictorial work since no objection was raised by Plaintiff or Defendant. In terms of the copyright ownership, since the Third Party provided the manuscript of one of the works created the original owner to the property right in the work was the Third Party. Both the Third Party and the Plaintiff admitted that there was relationship for transfer of the property right in the work between them, we could therefore determine that Plaintiff had the property right in the said work. As to the other work, since material defect existed in the contents of the copyright registration certificate provided by Plaintiff, it could not prove that the copyright to the work was owned by

Plaintiff, nor did the Third Party substantiate it any further, the Court did not support Plaintiff's claim for this pictorial work. In terms of the liabilities, subject to the law, Defendant Bao Qingmeng as the product seller had no fault during the infringement, and shall not be liable for compensation, but shall bear the liability for stopping the infringing act, and could not sell the products that have been determined as infringing work any more. It was concluded that Defendant Shanghai Phoenix Blanket Industrial Company had infringed upon the right to reproduce and distribute one of the pictorial works, and shall be subject to the civil liabilities for stopping the infringing act and compensation for the damages. However, since Plaintiff failed to provide evidence to show its losses caused by Defendant's infringing act, nor could it substantiate the profits obtained by Defendants, the Court made a decision on compensation of the amount of 30,000 Yuan for the economic losses of the Plaintiff based on the claims of Plaintiff and the merits of this case and within the legal compensation of 500,000 Yuan.

► Civil Judgment 1 of Tongzhou People's Court of Jiangsu Province:

Tongzhou People's Court of Jiangsu Province Civil Judgment

(2008) Tong Zhi Min Chu Zi No. 0050

Plaintiff: Nantong Kunqing Textiles Trading Co., Ltd., Address: Group 4, Zhihao

Village, Chuanjiang Town of this Municipality

Legal Representative: Huang Yuemei, Chairman of the Board

Authorized Representative: Yao Lan, Attorney-at-law of Beijing Guanheng Law Firm

Defendant: Bao Qingmeng, Male, Borne on September 5, 1977, Han Nationality, living at 108, Mingpin Street, West Dieshiqiao, Haimen City

Authorized Representative: Huang Hualei, Attorney-at-law of Jiangsu Nantong Wanfeng Law Firm

Authorized Representative: Yao Jian, Attorney-at-law of Jiangsu Nantong Haimeng Law Firm

Defendant: Shanghai Phoenix Blanket Industrial Co., Ltd., Address: 18, Wuwei Road, Putuo District, Shanghai

Legal Representative: Weng Hesheng, Chairman of the Board

Authorized Representative: Ye Chuanlu, Attorney-at-law of Shanghai Jinli Law Firm

Authorized Representative: Tang Ying, Attorney-at-law of Shanghai Jianxing Law Firm

Third Party: Zhaoqing Kunqing Plush Plant Co., Ltd., Address: Lantang, Duanzhou

No.1 Road, Zhaoqing, Guangzhou

Legal Representative: Huang Yuemei, Chairman of the Board

Authorized Representative: Lu Ding, Staff of the Company

With reference to the case of dispute over infringement of property right in work between Plaintiff Nantong Kunqing Textiles Trading Co., Ltd. (hereinafter "Kunqing Company") and Defendants Bao Qingmeng and Shanghai Phoenix Blanket Industrial Co., Ltd. (hereinafter "Phoenix Company"), af-

ter this Court have accepted this case on August 12, 2008, Wang Dong, the single judge adjudicated on his own, heard this case in accordance with law. During the trial process, and on October 15, 2008, Zhaoqing Kunqing Plush Plant Co., Ltd. (hereinafter the “Plush Plant”) applied for participation in the litigation of this case by the reason that it had transferred the copyright to Kunqing Company, the Plaintiff; this Court agreed to its participation in the action as the Third Party. This Court organized a hearing with the participation of both parties on September 8 and October 24 of the same year, and heard this case openly on November 11. Authorized Representatives of Plaintiff, Defendants and the Third Party participated in the litigation, this case has now concluded after trial.

Plaintiff Kunqing Company claimed that “Kunqing A115” and “Kunqing A217” were the pictorial works to which it had copyright. According to the feedbacks from customers in the market, it was established that the Defendants had sold commodities that had identical pictures to the said pictorial works. On December 17, 2007, Plaintiff Kunqing Company sent its staff to purchase the blankets from Defendant Bao Qingmeng, and applied to the Notary Public Office of Tongzhou City for notarization of such purchasing act; the trademark thereof showed that the blanket was produced by Defendant Phoenix Company. Plaintiff Kunqing Company’s work had been used commercially and with large sales volume, the infringing acts of the two Defendants resulted in the sharp decrease of Plaintiff’s customers, and caused serious damage to Plaintiff. Plaintiff therefore requested for judgment against the two Defendants for stopping infringing act immediately, and compensating it an amount of 50,000 Yuan for its damages and 427 Yuan for its reasonable expenses.

Defendant Bao Qingmeng argued that Plaintiff Kunqing Company did not have the copyright to the works “Kunqing A115” and “Kunqing A217”, and the commodities sold by him were sourced from Defendant Phoenix Company, so he shall not be liable for the compensation herein.

Defendant Bao Qingmeng contended that Plaintiff Kunqing Company did not have the copyright to the works “Kunqing A115” and “Kunqing A217”, the commodities sold by Defendant Bao Qingmeng were produced by it, but the design of the commodities was created and completed by itself, and was different from that of the Plaintiff Kunqing Company, so it shall not subject to liabilities.

The Third Party Plush Plant stated that the works under dispute between Plaintiff and Defendants were developed by it, and transferred to Plaintiff Kunqing Company on October 28, 2007, so it requested for a judgment supporting Kunqing Company's claim.

During the trial, neither Plaintiff nor Defendants raised any objection to the fact that the blankets sold by Defendant Bao Qingmeng were produced by Defendant Phoenix Company, so this Court confirmed the same. The focuses of dispute between the parties were as follows: I. Whether Plaintiff Kunqing Company had the copyrights in the works “Kunqing A115” and “Kunqing A217”; II. Whether the two Defendants' production and sales acts had constituted infringement; and III. If the infringing act could be established, how to determine the extent of losses and the civil liabilities that shall be undertaken by the two Defendants.

During the trial, Plaintiff Kunqing Company presented the following evidence with respect to the above dispute focus I:

1. On October 31, 2007, Jiangsu Copyright Office issued two certificates on the works, the author of both works was Plaintiff Kunqing Company, and both works were pictorial works in terms of their types. One of the registered works was titled “Kunqing A115”, and the completion time was June 15, 2004. The other was titled “Kunqing A217”, and the completion time was December 16, 2004. The design of the work in “Kunqing A115” was a photo of the blanket in its physical form, using broken branch rose as the design theme, and Piesi (meaning casting away thin color streaks within the given design model image) as the technique of expression; the design was arranged

alone with phylliform, geometry line, triangle, parallelogram and little flowers decorated around. The design of the work “Kunqing A217” was also a photo of the blanket in its physical form, using broken branch rose as the design theme, including a large one and a small one, and Piesi as the technique of expression, the design was arranged alone, forming a pane around the roses by using the branches, and the rims on both sides were decorated with leaves and little grass.

2. Two Copyright Transfer Contracts dated October 28, 2007, provided evidencing that the Plush Plant transferred to Plaintiff Kunqing Company for free the property right in the works Kunqing A115 and Kunqing A217.

During the trial, Plaintiff Kunqing Company asserted that the said two groups of evidence could prove that the copyrights to Kunqing A115 and Kunqing A217 were obtained from the Plush Plant through transfer. The two Defendants issued the following cross-examination opinions with respect to the said evidence and did not raise any objection to the authenticity of the copyright registration certificate in terms of its form and the descriptions on the design of the works. However, since Plaintiff Kunqing Company was established on October 25, 2007, and the time for completing the registration of said works was in 2004, and the transfer time was October 28, 2007, showing that both the copyright transfer agreement and the registration certificate of the works were fictitious.

During the trial, Defendant Phoenix Company argued that it had the manuscript of the blanket design involved in this case, and the completion time was earlier than that of the work of Plaintiff Kunqing Company. Defendant also provided the following evidence:

① Electronic preliminary sketch of the design and the color separation pictures in printing and dyeing, the preliminary sketch of the design was titled “China Rose in Full Bloom”, evidencing that the completion time of the preliminary sketch of the design was in March 2003, and the article number of the product was G3. The design intended to create a brisk feeling of integrat-

ing home with nature by using elegant and natural colors, simple branches and leaves, and true-life flowers, as well as simple but elegant abstract lines.

2. Contact list of Shanghai Blanket Plant dated April 1, 2003, evidencing the test specimen was planned to be arranged for model 67982, and the model was the G3 “China Rose in Full Bloom”, and G1 “Fashion Music”.

3. Certificate dated September 9, 2008, issued by the bankruptcy and liquidation committee of Shanghai Blanket Plant, evidencing the production equipment of Shanghai Blanket Plant was leased to Phoenix Company in July 2002, and the manufacturing plan sheet of Shanghai Blanket Plant was used by Phoenix Company continuously.

4. Photocopies of the 10 value-added tax invoices issued by Defendant Phoenix Company to Kunming Department Store Commercial Co., Ltd. and other customers from May through December of 2003, evidencing that the code name of the goods sold was 67982.

5. Registration forms of the works Kunqing A115 and Kunqing A217 in Nantong Copyright Office obtained by this Court according to the application of Defendant Phoenix Company, evidencing that Plaintiff Kunqing Company applied for registration of the works with the Copyright Office on October 22, 2007, and the brief introductions for the two works showed both works were original works of authorship.

6. The date specified in all the following documents was October 6, 2007, including the industry and commerce registration information of Plaintiff Kunqing Company, shareholders' resolution, and the articles of association of the Company, evidencing that Kunqing Company was established through the investment of the Third Party Plush Plant, and the establishment date was October 25, 2007.

During the trial, Defendant Phoenix Company contended that the afore-said evidence was capable of affording mutual corroboration, and could prove that the work of “China Rose in Full Bloom” was completed in 2003 and used for production and sale of commodities. Since the Plaintiff Kunqing

Company was established on October 25, 2007, and the plaintiff claimed that the work under copyright registration was created by itself. These facts contradicted to the copyright transfer contract in terms of time. It was obvious that the transfer contract was supplemented later and not truthful. Plaintiff Kunqing Company did not have the copyright in the work under dispute. Defendant Bao Qingmeng accepted the evidence provided by Defendant Phoenix Company and its evidencing purpose. Plaintiff Kunqing Company and the Third Party Plush Plant issued the following cross-examination opinions with respect to the said evidence, Defendant Phoenix Company did not provide the disc, but only provided a printed copy, so it's likely that the work may be modified, and the electronic preliminary sketch of the design and the color separation picture were fictitious. Defendant Phoenix Company only leased the equipment of Shanghai Blanket Plant, and may not possibly use the contact list, the contact list and the VAT invoices were not real, and did not correspond to the design of the blanket produced by it. The work registration forms in Nantong Copyright Office and the industry and commerce registration materials were truthful. Since Plaintiff Kunqing Company was wholly invested by the Third Party Plush Plant, and the legal representative of the two companies was the same person; at the time when Kunqing Company was established, the Third Party transferred its copyright to Plaintiff Kunqing Company, and went through the copyright registration formalities during that stage.

During the trial, the Third Party provided the following evidence supporting that the works were original works of authorship:

1. The manuscript of the drawing, which used broken branch rose as element for creation including one rose, and Piesi as the technique of expression, branches were used to form a pane around the roses, and the rims on both sides were decorated with leaves and little grass. The bottom of the manuscript also indicated Wang Lixin was the designer, and design was titled "Flower Shadow", the date was April 5, 2004, as well as A217, signature of Huang Yuemei and contents that one more rose shall be added.

2. The stub of the invoice of the Third Party Plush Plant dated December 17, 2004, evidencing that the blankets under No.A115 and A217 had been sold as products.

During the trial, the Third Party Plush Plant failed to find the manuscripts for the design No.115, but it could be proved from the manuscript of the design No. 217 that it was the original author, and the completion date was April 2004, and the photo attached in the work registration certificate was taken according to the blanket produced by it. The two Defendants admitted that the manuscript belonged to the Third Party Plush Plant, but Plaintiff Kunqing Company registered the work for filing based on the photo of the blankets, and it did not have copyright to it. It was unable to confirm the authenticity of the invoice.

During the trial, as to the dispute focus II, Plaintiff Kunqing Company provided the notarization of Tongzhou Notary Public Office (2007) Tong Zheng Min Nei Zi No.1403 and the blanket in its physical form which was preserved under notarization, to support the fact that the applicant was Kunqing Company, and on December 17, 2007, Dan Jinju purchased the blanket suspected of infringement from 108 Mingpin Street in West Dieshiqiao of Hai-men and paid 260 Yuan for it.

The preserved blanket was presented at the Court. The blanket was produced by Defendant Phoenix Company, and used broken branch rose as the design theme, including both a large and a small roses; and Piesi as the technique of expression; the design was arranged alone with phylliform, geometry line, triangle, parallelogram and little flowers decorated around. The flower type in the blanket design was identical to that of the single rose in the work Kunqing A217, and the decorations and accessories around were consistent with those in the work Kunqing A115.

During the trial, Plaintiff Kunqing Company asserted that the design of the preserved blanket was produced through splicing and reproduction, using a portion of the works Kunqing A115 and Kunqing A217, and had constituted

an infringement. The two Defendants recognized the authenticity of the notarization, and did not raise any objection with respect to the fact that the preserved blanket was produced by Defendant Phoenix Company and sold by Defendant Bao Qingmeng, but contended that the design of the preserved blanket was created by itself, and was different from that of the Plaintiff Kunqing Company, therefore, did not constitute an infringement, even if it was splicing, it did not constitute an infringement according to the Copyright Law of China.

During the trial, as to the dispute focus III, Plaintiff Kunqing Company failed to provide any evidence supporting Defendants' use of such work for commercial purpose after the work had been transferred to it with large sales volume, and the infringing acts of the two Defendants resulted in sharp decrease of its customers, and caused serious damages, but only provided the receipts for payment to the Notary Public Office of Tongzhou City, which proved that it paid a notary fee of 167 Yuan to the Notary Public Office. During the trial, Plaintiff Kunqing Company asserted that it had paid an amount of 427 Yuan for obtaining evidence including the expense for purchase of the blanket, and requested the Court to apply statutory damages. Neither Defendant had any objection to the second installment of fee paid by Plaintiff Kunqing Company for obtaining evidence.

Based on the evidence provided by the parties and the cross-examinations between them, we verify as follows with respect to the said evidence: The copyright certificates of Kunqing A115 and Kunqing A217 provided by Plaintiff Kunqing Company, notarization and the preserved blanket in physical form under notarization, as well as the receipt for payment to the Notary Public Office were issued by the relevant state authority, so they were authentic; The hand drawing manuscript and the stub of the invoice provided by the Third Party Plush Plant were the originals, and shall have authenticity and effect of proof since there was no contrary evidence in rebuttal; The two Copyright Transfer Contracts between Plaintiff Kunqing Company and the Third

Party Plush Plant were originals, but formed after the date of registering the work with the Copyright Office; therefore, such Contracts were fictitious. However, the allegations made by the said parties during the trial with respect to the transfer of the work to Kunqing Company at the time when the Plush Company invested to establish Kunqing Company had the power of proof; it was difficult for this Court to confirm the authenticity of the electronic drawing and the color separation picture in printing and dyeing provided by Defendant Phoenix Company, since there was no disc or any other evidence substantiating their sources; the work contact list and the certificate provided by the bankruptcy and liquidation committee of Shanghai Blanket Plant were originals, although Plaintiff Kunqing Company denied their authenticity, it failed to provide contrary evidence in rebuttal, therefore, this group of evidence is deemed to be truthful. The VAT invoice was a photocopy, Defendant Phoenix Company did not provide its original copy for verification, this Court could not confirm the truthfulness of this group of photocopy, and meanwhile held that even if the VAT invoice were truthful, the code number of the goods sold was 67982, it could only substantiate together with the contact list that the blanket with the design of “China Rose in Full Bloom” under the code number G3 was produced and sold in 2003, and could not substantiate that the blanket under the code number 67892 or the design G3 was the design of the work under dispute of this case; therefore, work contact list and VAT invoice did not have the effect of proof in this case, and could not prove the fact that Defendant Phoenix Company began its production and sale of the blanket involved in this case from 2003; and the work registration form and the industry and commerce registration materials were issued by the competent state authority and shall have the effect of proof if there was no contrary evidence in rebuttal.

To sum up, the merits of this case were as follows: On April 5, 2004, the Third Party Plush Plant completed the pictorial work titled “Flower Shadow” under the code number A217. In December of the same year, it sold the

blankets under the code numbers A115 and A217. On October 6, 2007, the Third Party Plush Plant made investment to establish Kunqing Company, which was established upon approval on 25 of the same month. On October 22, Plaintiff Kunqing Company registered the works Kunqing A115 and Kunqing A217 with the copyright department in its own name, and indicated in the brief introductions that such works were original works of authorship, and the completion times were June 15, 2004 and December 16, 2004 respectively, and obtained copyright certificates on 31 of the same month. On December 17 of the same year, Plaintiff Kunqing Company purchased the blanket produced by Defendant Phoenix Company from Defendant Bao Qingmeng by ways of obtaining evidence through notarization, and paid 427 Yuan for obtaining such evidence.

According to the said facts, and with respect to the dispute focuses, this Court held that:

I. Plaintiff Kunqing Company had the property right in the pictorial work Kunqing A217.

Firstly, during the trial of this case, the Third Party Plush Plant provided a hand drawing of the pictorial work titled “Flower Shadow” under the code number A217, which was completed on April 5, 2004, according to the description of the work, it had originality. In October 2007, when Plaintiff Kunqing Company registered the pictorial work Kunqing A217 with the copyright department, it attached a photo of the blanket in its physical form as the carrier of the work design. After comparison, the design of the work Kunqing A217 only added two roses with a large one and a small one respectively at the right side of the rose of the work “Flower Shadow”, all the other portions of the design remained unchanged in terms of the composition and arrangement of picture, techniques of expression, and application of colors, etc., which showed that the Third Party Plush Plant had made modifications to the design of the work No.A217 according to the requirements of the hand drawing for adding a piece of flower when actually using such work, and repro-

duced such design to the blanket produced by it, thereby forming the design as attached in the photo of Kunqing A217; the Third Party Plush Plant had the copyright to the pictorial work Kunqing A217 before transfer of the same. In October 2007, the work was registered under the name of Plaintiff Kunqing Company and indicated that it was original work of authorship and completed on December 16, 2004, which was manifestly inconsistent with the establishment date of Plaintiff Kunqing Company, and there were defects in some items of the work registration certificate. However the original author of the work, i.e., the Third Party Plush Plant admitted that it had transferred the property right in such work at the time of establishing Kunqing Company, and appeared at the Court to support the action of Plaintiff Kunqing Company, showing that it did not have any objection to the fact that Plaintiff Kunqing Company had accepted the transfer and owned the property right in such work, therefore, the property right in the work Kunqing A217 was owned by Plaintiff Kunqing Company from the date of October 22, 2007.

Secondly, the Third Party Plush Plant did not raise any objection to the fact claimed by Plaintiff Kunqing Company that the work Kunqing A115 was obtained from the Third Party through transfer; however, the invoice provided by the Third Party Plush Plant could only prove that the blanket under number A115 was sold in 2004, and could not prove that the design reproduced in the A115 blanket was consistent with that in the registration certificate of the work A115, nor did it provide the original hand drawing or any other evidence to show that it had the copyright to the work before such transfer. Since Plaintiff Kunqing Company was established in October 2007, the registration certificate of the work Kunqing A115 held by it specified that the work was created and completed by itself on June 15, 2004, which showed that material defect existed in the items specified in the work registration certificate. During the trial, the Third Party Plush Plant failed to further prove that it was the original author of the work, so this Court is unable to determine that Plaintiff Kunqing Company had the copyright to the work Kunqing A115.

II. The two Defendants' acts of production and sale of the blankets involved in this case had constituted infringements, and shall be subject to corresponding civil liabilities.

During the court session, exhibition was made on the blanket involved in this case which was produced by Defendant Phoenix Company and Sold by Defendant Bao Qingmeng. Compared with the pictorial work of Kunqing A217 in which Plaintiff Kunqing Company had the property right, the design of the blanket involved in this case was completely identical to that of Kunqing A217 in terms of the drawing and technique of expression. Evidence provided by Defendant Phoenix Company was unable to substantiate that the main design involved in this case was completed independently by it, it was therefore concluded that Defendant Phoenix Company reproduced the main creation materials of the pictorial work Kunqing A217. The two Defendants had constituted infringement upon Plaintiff's reproduction and distribution rights for their production and sale of the photocopies of the work Kunqing A217 without the lawful authorization of the right owner. Subject to the provisions of Article 52 of the *Copyright Law* of China, "A publisher or producer of a copy shall bear legal liability if the publisher or producer fails to prove that the publication or production thereof has been lawfully authorized. A distributor of a copy, or a lessor of a copy of a cinematographic work, a work created by means similar to cinematography, computer software, a sound recording or visual recording shall bear legal liability if the distributor or lessor fails to prove that the copy distributed or leased thereby is legal." Defendant Bao Qingmeng had proved the legal source of the copy, so he shall not undertake civil liabilities for compensation, but shall be subject to civil liabilities for stopping the sale of the infringing reproduction. Defendant Phoenix Company was unable to prove that it had been lawfully authorized or had legal sources to the copy of Kunqing A217 produced and sold by it, so it shall stop production and sale of the infringing copy and subject to the corresponding civil liabilities for compensation.

III. Plaintiff Kunqing Company shall be compensated according to the circumstances.

Plaintiff Kunqing Company failed to provide evidence supporting that the work after transfer had been used for commercial purpose and with large sales volume, the infringing act of the two Defendants resulted in the sharp decrease of its customers, and caused serious damages to it, but only provided the reasonable expense of 427 Yuan paid by it for obtaining the evidence. During the trial, Plaintiff Kunqing Company requested for application of statutory damages, which was supported by this Court.

This Court determined the amount of compensation according to the circumstances by taking overall consideration of factors such as the cost for creation of the work, nature of the infringing acts, as well as the reasonable expenses paid for protection of rights.

Therefore, in accordance with item (1), paragraph one of Article 47, Article 48 and Article 52 of the *Copyright Law of the People's Republic of China*, and Article 25 of the *Interpretations on Issues concerning Application of Law in the Trial of Cases of Civil Dispute over Copyright*, this Court rules as follows:

I. Defendant Bao Qingmeng shall immediately stop his sales act of infringing the property right in the work of Kunqing A217 owned by Plaintiff Nantong Kunqing Textiles Trading Co., Ltd. after this judgment becomes legally effective;

II. Defendant Phoenix Company shall immediately stop its production and sales act of infringing the property right in the work of Kunqing A217 owned by Plaintiff Kunqing Company after this judgment becomes legally effective; and

III. Defendant Phoenix Company shall compensate at one lump sum an amount of 30,000 Yuan for the various losses of Plaintiff Kunqing Company within ten (10) days after this judgment becomes legally effective.

If Defendant Phoenix Company failed to perform its monetary obligation

within the time specified in this judgment, it shall pay double amount of the interests for the period of default in accordance with the provisions of Article 229 of the *Civil Procedure Law of the People's Republic of China*.

The case acceptance fee of 1,112 Yuan shall be collected by reducing to half, i.e, 556 Yuan, which shall be borne by Plaintiff Kunqing Company and Defendant Phoenix Company on 226-330 Yuan basis (The amount that shall be assumed by Defendant has been advanced by Plaintiff, and shall be paid by the Defendant together with other expenses at the time of execution).

If any party were dissatisfied with this judgment, it may submit an appeal and its duplicate in three copies to this Court within 15 days from the date of service of this judgment, for appeal to Jiangsu Nantong Intermediate People's Court; and meantime, advance a case acceptance fee of 1,112 Yuan for appeal to the said court (Account Name: Nantong Municipal Treasury Bureau, Deposit Bank: Bank of China Xibeizha Subbranch, Account Number: 84830181001650008).

Judge: Wang Dong

Clerk: Shi Ye

November 24, 2008

► **Syllabus (Headnote) of Civil Judgment 2 of
Tongzhou People's Court of Jiangsu Province**

**Brief Summary of the Civil Judgment 2 of Tongzhou People's
Court of Jiangsu Province:**

In this case, Plaintiff sued against Defendants for infringement of its copyright in works. Before bringing the lawsuit, Plaintiff firstly applied for voluntary registration of the pictorial work involved in this case with the copyright administrative authority, and obtained the registration certificate for such work; secondly, Plaintiff engaged a notary public to make on-site notarization with respect to the information on the products involved in this case which were purchased by the person entrusted by Plaintiff. Since Defendant did not raise any objection to the fact that the design involved in this case constituted a pictorial work and the copyright to such work shall be owned by Plaintiff, the Court concluded that Plaintiff had the copyright to the said work. Defendant argued that the articles involved in this case were not sold by himself, but failed to provide any contrary evidence with respect to the contents of notarization, the Court thus concluded that Defendant had sold the articles involved in this case, and had infringed upon the Plaintiff's copyright, therefore shall be subject to civil legal liabilities. Since Plaintiff was unable to prove his losses caused by the infringing act of Defendant or the amount of unlawful gains of the Defendant, Plaintiff applied for statutory damages, and the Court ruled in accordance with law that Defendant shall stop infringement and compensate Plaintiff an amount of 25,000 Yuan for his economic losses according to the circumstances of this case.

► Civil Judgment 2 of Jiangsu Tongzhou People ' s Court:

Jiangsu Tongzhou People ' s Court Civil Judgment

(2009) Tong Zhi Min Chu Zi No. 0062

Plaintiff: Huang Weibing, Male, Borne on November 18, 1968, living at 45, Group 23, Huinan Village, Sanxing Town, Haimen City

Authorized Representative: Zhou Yongjian, Attorney-at-law of Jiangsu Pingfan Law Firm

Defendant: Zhou Xingzhong, Male, Borne on March 12, 1970, Han Nationality, proprietor of the Dimengsi Home Textiles in 1 Quarter 5, Building 2, Suite A of International Home Textiles City, Dieshiqiao, living at 7, Group 27, Huinan Village, Sanxing Town, Haimen City.

With regard to the case of dispute over infringement of property right in work between Plaintiff Huang Weibing and Defendant Zhou Xingzhong, after this Court accepted this case on April 2, 2009, Wang Dong, the single judge adjudicated on his own, heard this case openly in accordance with law; Zhou Yongjian, the Authorized Representative of Plaintiff and Defendant Zhou Xingzhong appeared at the court for the action, this case has now concluded after trial.

Plaintiff Zhou Weibing claimed that it created and completed the pictorial work “True Love Eternity” on August 16, 2007, and made copyright registration on September 25 of the same year. In March 2009, Plaintiff Huang Weibing discovered that Defendant Zhou Xingzhong had sold the bedding articles whose design was identical to his pictorial work, and infringed upon its copyright to the “True Love Eternity”, and caused serious damages, he requested for judgment against Defendant Zhou Xingzhong for immediately stopping infringement and compensating Plaintiff Huang Weibing a total amount of 50,000 Yuan for the losses caused by his infringement on the copyright and the reasonable expenses for stopping the infringement.

Defendant Zhou Xingzhong contended that he did not have any objection to the fact that Plaintiff Huang Weibing had the copyright in the

work “True Love Eternity”, but he did not have infringing act, and requested the court to hear the case in accordance with law.

During the trial, the Defendant did not raise any objection to the Plaintiff's ownership in the copyright of the work “True Love Eternity”, and the ownership was to be confirmed by this Court. The focus of dispute of the parties were as follows: I. Whether Defendant Zhou Xingzhong had sold the products involved in this case; II. If Defendant constituted an infringement for sale of the products involved in this case, what civil liability the Defendant shall bear and how to determine the amount of damages.

During the trial, Plaintiff provided the copyright registration certificate No.10T-2007-2594 in order to prove his copyright in the work “True Love Eternity”, and the name of the work registered under the certificate was “True Love Eternity”, the type of the work was pictorial work, and the author was Huang Weibing, the registration date of the work was September 25, 2007. The work “True Love Eternity” used such techniques of expression as impressionistic style, Piesi (meaning casting away thin color streaks within the given design model image) and smudge shading. The bedcover used two heart shape flowers as the design theme, feathers were decorated on top of one of the heart shape designs, and in the middle of the heart shape, letters “XingXing” were used as decoration; while ribbons were decorated on top of another heart shape design, and regularly arranged dots and lines were also interspersed in the middle. Nine flowers of different sizes were furnished around the bedcover; the corners of the bedcover were decorated with two adjacent flowers together with ribbons and feathers; the flower shapes in single person pillow and double person pillow, cushions were in conformity with that in the corners of the bedcover. The overall arrangement of the design showed a sense of beauty of conciseness and brightness.

During the trial of this case, to prove that Defendant Zhou Xingzhong had infringed upon his copyright to the work “True Love Eternity” in the

selling one of the bedding articles, Plaintiff Huang Weibing provided the Notarization (2009) Tong Nan Zheng Min Nei Zi No.743 issued by Nantong Notary Public Office, which specified contents as follows:

On March 26, 2009, Plaintiff entrusted an agent Wu Xi and notary public Xu Jian as well as Zhou Yuming, who was the staff in the notary public office to the second floor of the Embroidery City. Wu Xi, who pretended to be an ordinary consumer, bought the bedding articles with the product name of "Heart to Heart" from the shop whose trade name was "Dimengsi Home Textiles", and obtained a sales invoice and the business card of Zhou Xingzhong. Attached in the notarization included the sales invoice from Dimengsi Home Textiles, business card of Zhong Xingzhong and 4 pictures for the bedding articles. The product name specified in the sales invoice was Leisi bedspread sold, and what the photo had reflected was the exterior and interior packing and the bedcover flower type of the bedding articles, and the exterior packing was marked with the name of Jiajushu and Haimen Three Stars Dimengsi Bedspread Factory, and the interior packing was marked with the series of names of Duomile Home Textiles, the name of the publicity pictures was "Heart to Heart". During the trial, Defendant did not raise any objection to the authenticity of the notarization, and admitted that the attached sales invoice, business card and the exterior packing picture were owned by him, but contended that the proprietor of Duomile Home Textile was Gong Sheng, who had never produced or sold such products. Plaintiff Huang Weibing asserted that he bought the said home textiles products from Dimengsi Home Textiles Shop operated by Defendant Zhou Xingzhong.

During the trial, comparison was made between the home textiles products sealed up for notarization purpose and the work "Heart to Heart", both Plaintiff and Defendant believed that the flower types of the two articles were consistent with each other in terms of the elements of creation, techniques of expression, and formation and arrangement of the design.

During the trial, Plaintiff Huang Weibing did not provide any evidence

proving any serious damage caused to him, nor did he provide any evidence for payment of reasonable expenses arising from protection of his rights, therefore, he requested the Court to apply statutory damages.

As to the said evidence, this Court verified as follows after both parties had provided evidence and made cross-examination: The copyright certificate, notarization and the product presented by Plaintiff Huang Weibing were truthful and could prove the relevant facts of this case. During the trial, Defendant Zhou Xingzhong contended that the home textiles products involved in this case were from Duomile Home Textiles, and not sold by him, however, the sales invoice issued by him only indicated the common product name Leisi bedspread type, but did not indicate the specific name of the bedspread sold. As a seller, he did not only violate his obligations for issuing the sales invoice, receipt according to the facts, and filling in the invoice in standard form, nor was he unable to substantiate the specific product name of the home textiles product under the bill issued by him. While the notarization was the proof made by a notary public according to the facts with respect to the process of obtaining evidence by the Authorized Representative of Plaintiff through on-site transaction in the Dimengsi Home Textiles Shop operated by Defendant Zhou Xingzhong, and shall be used as evidence if no contrary evidence overruling it, and could prove that Defendant Zhou Xingzhong had sold the home textiles products involved in this case.

To sum up, the basic facts of this case were as follows: Plaintiff Huang Weibing made copyright registration on the pictorial work of “True Love Eternity” on September 25, 2007. On March 26, 2009, Plaintiff Huang Weibing purchased by ways of obtaining evidence for notarization the bedding articles whose design was identical to that of the “True Love Eternity” at Dimengsi Home Textiles Shop operated by Defendant Zhou Xingzhong.

According to the said facts, and based on the dispute focuses of this case, this Court held that:

I. Plaintiff Huang Weibing had the copyright to the pictorial work involved in this case.

As described in the pictorial work “True Love Eternity”, the work has originality, and has constituted a “work” as prescribed in the Copyright Law of China. Plaintiff Huang Weibing as the registrant of the work “True Love Eternity” shall lawfully have the copyright in this work under the circumstance without any contrary evidence denying the same.

II. Defendant Zhou Xingzhong sold the infringing products involved in this case, and shall be subject to civil liabilities, Plaintiff Huang Weibing shall be given compensation for his damages according to the circumstances.

During the trial, after comparison, the flower type of the home textiles products involved in this case was consistent with the work “True Love Eternity” in terms of their element of creation, technique of expression and formation and arrangement of the design. Defendant Zhou Xingzhong’s sale of the home textiles products had infringed upon the Plaintiff Huang Weibing’s property right in the work of “True Love Eternity”. Subject to the provisions of the Copyright Law of China, he shall be subject to civil liabilities for stopping production and sale of the infringing copies and compensating Plaintiff for his damages. Since Plaintiff Huang Weibing failed to provide evidence for his damages, or any evidence for payment of reasonable expenses arising from protection of his rights, this Court concluded that the amount of compensation by taking comprehensive consideration of factors including the cost for the design of the flower type, quantity of infringing products as well as the market cycle of the home textiles products.

This Court held that Defendant Zhou Xingzhong’s production and sale of the infringing bedding articles involved in this case has infringed upon Plaintiff’s property right in the work of “True Love Eternity”, and shall stop production and sale of the infringing products and compensate Plaintiff Huang Weibing for his economic losses. Therefore, in accordance with item (1), paragraph one of Article 47, Article 48, and Article 52, as well as the



provisions of Article 52 of the *Interpretations of the Supreme People's Court on Issues of Law Application during the Trial of Cases of Civil Dispute over Copyright*, this Court ruled as follows:

I. Defendant Zhou Xingzhong shall immediately stop his act of production and sale of products that have infringed upon the copyright of the work "True Love Eternity" owned by Plaintiff Huang Weibing after this judgment becomes legally effective.

II. Defendant Zhou Xingzhong shall compensate Plaintiff Huang Weibing an amount of 25,000 Yuan for his various losses within 7 days after this judgment becomes legally effective.

If Defendant Zhou Xingzhong failed to perform his obligation for payment of money within the time period as specified in this judgment, he shall pay double amount of the interests for the period of default in accordance with the provisions of Article 229 of the *Civil Procedure Law of the People's Republic of China*.

The case acceptance fee is 1,130 Yuan, which shall be collected by reducing to half, i.e., 565 Yuan, and borne by Plaintiff Huang Weibing and Defendant Zhou Xingzhong respectively on a 282-283 Yuan basis.

If any party were dissatisfied with this judgment, he may submit an appeal and its duplicate in two copies to this Court within 15 days from the date of service of this judgment, for appeal to Jiangsu Nantong Intermediate People's Court, and meantime, advance a case acceptance fee of 1,130 Yuan for appeal to the said court (Account Name: Nantong Municipal Treasury Bureau, Deposit Bank: Bank of China Xibeizha Subbranch, Account Number: 84011591508094001).

Judge: Wang Dong
Clerk: Shi Ye
May 19, 2009



Appendix VI

► Administrative Penalty Decision of Nantong Copyright Office

Su Tong Ban Quan (2005) Fa Zi No. 5

Entity Subject to Penalty: Shanghai Yusheng Bedding Co., Ltd.
Tongzhou Branch

Responsible Person of the Branch Company: Guan Xuejuan

After investigation, your company reproduced through infringement and sold the embroidery that embroidered the pictorial work “Leftover Dreams with Stream Flowers” in a total quantity of 80 sets and the embroidery that embroidered the pictorial work of “Love for Grassland” the total quantity of which was 90 sets. The copyrights to the pictorial work of “Leftover Dreams with Stream Flowers” and “Love for Grassland” were owned by Nantong Sino-Canadian Textiles Co., Ltd., and have been registered with Jiangsu Copyright Office, the registration numbers were respectively as follows: “Leftover Dreams with Stream Flowers” (10T-2004-F-607); and “Love for Grassland” (10T-2004-F-513).

The said act of Shanghai Yusheng Bedding Co., Ltd. Tongzhou Branch has violated the provisions of Article 10 of the Copyright Law of the People’s Republic of China, and we hereby determine as follows in accordance with item (1) of Article 47 of the Shanghai Yusheng Bedding Co., Ltd. Tongzhou Branch:

- I. Order the entity subject to penalty to immediately stop its infringing act; and
- II. Confiscate the reproduced and sold infringing embroidery that

embroidered the pictorial work of “Leftover Dreams with Stream Flowers” in a total quantity of 80 sets and the embroidery that embroidered the pictorial work of “Love for Grassland” the total quantity of which was 90 sets.

If the entity subject to penalty were dissatisfied with this Decision, it may apply for administrative reconsideration to Nantong Municipal People’s Government or Jiangsu Copyright Office within sixty (60) days from the date of this Decision, or file an administrative litigation to Chongchuan District People’s Court within three (3) months from receipt of this Decision. During the reconsideration or litigation, this administrative penalty decision will not cease to be executed. Failure to apply for reconsideration or bring a lawsuit to the people’s court or failure to implement this decision, we will apply to the people’s court for mandatory execution.

Nantong Copyright Office
Legal Representative: Fan Ping
August 22, 2005

Copy to: Jiangsu Copyright Office, Legal Affairs Office of Nantong Municipal People’s Government.

Appendix VII

► The Flowchart of the Investigation Project

