China IPMT Alert-China Publishes Draft Rules on Protection of Information Network Dissemination Rights

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On 22 April, 2012, the Supreme People's Court in China published the “Draft Provisions on Several Issues concerning the Application of Law in Hearing Civil Dispute Cases Involving Infringement of the Right to Network Dissemination of Information” (Draft Rules). The legal framework regarding protection of information network dissemination rights mainly include The Copyright Law, the “State Council Regulations on the Protection of Right of Dissemination via Information Networks” (State Council Regulations) and the “Interpretation of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Cases Involving Copyright Disputes over Computer Networks” (2006 Interpretation), which took effect on 1 July 2006. When enacted, the 2006 Interpretation will be replaced by the Draft Rules. Relevant in this context are also the “Trial Guiding Opinions of the Beijing High People's Court on Certain Issues related to the Trial of Cases involving Copyright Disputes in the Internet Environment” (Trial Opinions), which came into effect on Aug 1, 2011. However, the Trial Opinions are not national legislation but provide guidance for Beijing courts in relation to judging copyright infringements in the online environment.

INTRODUCTION
From an overall perspective, the Draft Rules are much more detailed than the current 2006 Interpretation and incorporate several rules from State Council Regulations on liability of network service providers (NSPs). Much like the draft Copyright Law, which is currently under amendment, the Draft Rules also seek to balance the interests of rights holders, NSPs and the public. The key theme is consideration of the fast development of technology and the internet environment. The Draft Rules are also a response to emerging copyright infringement law suits involving downloadable music and literary works in the online environment. In terms of detail, the Draft Rules set out a number of new definitions that will have an impact on both NSPs and rights holders. The main points are explained here below.