



Llinks Corporate and M&A Bulletin
March 2018

上海
上海市银城中路 68 号
时代金融中心 19 和 16 楼
邮编：200120
电话：+86 21 3135 8666
传真：+86 21 3135 8600

北京
北京市建国门北大街 8 号
华润大厦 4 楼
邮编：100005
电话：+86 10 8519 2266
传真：+86 10 8519 2929

香港
香港中环皇后大道中 5 号
衡怡大厦 27 楼
电话：+852 2969 5300
传真：+852 2997 3385

伦敦
1/F, 3 More London Riverside
London SE1 2RE
United Kingdom
T: +44 (0)20 3283 4337
D: +44 (0)20 3283 4323

www.llinksllaw.com

SHANGHAI
19/F&16/F, ONE LUJIAZUI
68 Yin Cheng Road Middle
Shanghai 200120 P.R.China
T: +86 21 3135 8666
F: +86 21 3135 8600

BEIJING
4/F, China Resources Building
8 Jianguomenbei Avenue
Beijing 100005 P.R.China
T: +86 10 8519 2266
F: +86 10 8519 2929

HONG KONG
27/F, Henley Building
5 Queen's Road Central
Central, Hong Kong
T: +852 2969 5300
F: +852 2997 3385

LONDON
1/F, 3 More London Riverside
London SE1 2RE
United Kingdom
T: +44 (0)20 3283 4337
D: +44 (0)20 3283 4323

master@llinkslaw.com

China Issued Measure to Tighten Outbound IP Transfers

By Xun Yang

The General Office of China's State Council (the “**General Office**”) adopted on 18 March 2018 the Measure for Transferring Intellectual Property Rights to Foreigners (Provisional) (the “**IP Transfer Measure**”), which measure has been publicly released yesterday. The IP Transfer Measure provides for a mission for relevant government agencies to administer outbound intellectual property transfers from national security and public interest aspects.

The IP Transfer Measure, together with the draft measure for security assessment on data transfer, demonstrates the government's efforts to protect national interest in the commercial regime. It may also be a fight-back against Trump's launch of 301 investigations against China.

The IP Transfer Measure governs a wide range of intellectual property rights. With respect to the content of intellectual property rights, it captures patents, software copyrights, layout designs, new plant species, and their applications. With respect to the forms of transfer, it attempts to regulate assignments, licenses, and change of control through equity acquisitions.

The IP Transfer Measure requires that relevant government agencies examine the impact on national security and public interest when

如果您需要本出版物的中文本，
请与下列人员联系：

郭建良: (86 21) 3135 8756
Publication@llinkslaw.com

If you would like other Llinks
publications, please contact:

Roy Guo: (86 21) 3135 8756
Publication@llinkslaw.com

Llinks Law Offices
www.llinksllaw.com

China issued measure to tighten outbound IP transfers

examining applications for intellectual property transfers. In particular, the IP Transfer Measure urges that commercial department work closely with relevant intellectual property administrations (e.g., the intellectual property bureau, the copyright administration, and the agriculture and forestry administration) to administer intellectual property transfers. On one hand, the commercial department is required to consult with the relevant intellectual property administrations in approving intellectual property transfers. On the other, relevant intellectual property administrations are required not to register or file the intellectual property transfer pending approvals granted by the commercial department.

Note, however, the General Office is not a ministry nor is it the State Council itself. The General Office does not have authority to issue rules binding private business operators nor has it the power to impose additional licensing requirements. Most likely, these security examination requirements will be embedded in existing approval or filing procedures with respect to intellectual property transfers.

These security examination requirements obviously bring uncertainty to intellectual property transfers and may delay the implementation of intellectual property transfers. Companies which contemplate outbound intellectual property transfers are advisable to prepare good commercial reasons to justify the transfers. They may also consider adopting alternative business models, such as R&D collaborations and offshore acquisitions.

China issued measure to tighten outbound IP transfers

Contact Details

If you would like to know more information about the subjects covered in this publication, please feel free to contact the following people or your usual Llinks contact.

Author	
Xun Yang Tel: +86 21 3135 8799 xun.yang@llinkslaw.com	
Shanghai	
David Yu Tel: +86 21 3135 8686 david.yu@llinkslaw.com	Bernie Liu Tel: +86 21 3135 8678 bernie.liu@llinkslaw.com
Selena She Tel: +86 21 3135 8770 selena.she@llinkslaw.com	Nicholas Lou Tel: +86 21 3135 8783 nicholas.lou@llinkslaw.com
Dali Qian Tel: +86 21 3135 8676 dali.qian@llinkslaw.com	Kenneth Kong Tel: +86 21 3135 8777 kenneth.kong@llinkslaw.com
David Wu Tel: +86 21 6043 3711 david.wu@llinkslaw.com	David Pan Tel: +86 21 3135 8701 david.pan@llinkslaw.com
Elyn Jiang Tel: +86 21 6043 3710 elyn.jiang@llinkslaw.com	
Beijing	
David Yu Tel: +86 10 8519 2266 david.yu@llinkslaw.com	Bernie Liu Tel: +86 10 8519 2266 bernie.liu@llinkslaw.com
Yuhua Yang Tel: +86 10 8519 1606 yuhua.yang@llinkslaw.com	
Hong Kong (in Association with Vivien Teu & Co LLP)	
David Yu Tel: +86 21 3135 8686 david.yu@llinkslaw.com	Sandra Lu Tel: +86 21 3135 8776 sandra.lu@llinkslaw.com
London	
Yuhua Yang Tel: +44 (0)20 3283 4337 yuhua.yang@llinkslaw.com	