CLIENT ALERTS & INSIGHTS

Navigating the New Regulations on E-Books in China

MARCH 1, 2011

On October 9, 2010, the General Administration of Press and Publication of the People's Republic of China ("GAAP") issued an opinion regarding the development of the E-book industry (GAAP [2010] No.9) (the "Opinion"). Under the Opinion, China imposed license requirements on the e-book industry. There are four types of e-book licenses: (i) Publishing Licenses, which are issued to companies engaged in e-books publishing; (ii) Duplicating Licenses, which are issued to companies engaged in converting books to digital books, editing, and chip implantation of e-book content; (iii) Distribution Licenses, issued to companies engaged in wholesale or retail sales of e-books; and (iv) Importing Licenses, issued to companies engaged in importing e-books. The E-book Licenses are subject to annual audit, and if companies with E-book Licenses fail to maintain appropriate standards, their E-Book Licenses will be revoked.

To date, 21 Chinese companies have obtained E-book Licenses. The majority of these companies have obtained only one type of E-book License, while a few have obtained both an E-book Duplicating License and a Distribution License. However, there are no companies that have been issued both an Importing License and a Distribution License. Practically speaking, therefore, foreign e-book companies will need to work with both e-book importers and e-book distributors in China for their products to enter the Chinese market.

Naturally, foreign e-book companies are interested in obtaining their own licenses to enter into the Chinese market. However, to date, no foreign companies have been granted any type of E-book License. In a telephone conversation with a GAAP official, we were told this was because only Chinese companies may apply for E-book Licenses. However, the Opinion does not indicate that only domestic Chinese companies are eligible for E-Book Licenses, and, indeed, that position is contrary to applicable authority. Since at least May 2003, foreign companies have been permitted to form wholly-owned companies in China to engage in book, newspaper, and journal distribution. Later, on April 16, 2004, the Ministry of Commerce issued certain Measures for the Administration of Foreign Investment in the Commercial Sector (the "Distribution Regulation") setting forth measures to guide foreign companies in applying to form these distribution companies. For this reason, we believe that foreign companies are entitled to apply for and obtain the E-Book Distribution and E-Book Importing Licenses specified by the GAAP in its recent Opinion.

While some aspects of navigating the new Chinese E-book regulations may be complex, we are optimistic that, with appropriate guidance, foreign companies will eventually succeed in obtaining the sanctioned E-book licenses.

Additional Information

For additional information, please contact:

Yanping Wang at (8621) 3222-0388 or ywang@beneschlaw.com