

Paper Proposal for 37th ATRIP Annual Congress

Internet Censorship: Copyright and Public Order

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Before the Chinese Cybersecurity Law (CCSL), which legalizes the governmental control of incoming and outgoing data flows on the Internet, entered into force in June 2017, the United States raised its concerns at the WTO over the CCSL's potential negative impact on the global trade in services. The issue may involve not only the trade in services but intellectual property protection and enforcement. 11 years ago, U.S. complained at the WTO against China over its protection and enforcement of intellectual property rights and won in the DSB Panel Report regarding its copyright claim, i.e. the Chinese Copyright Law that denied the minimum standards of protection specially granted by the Berne Convention for the works whose publication or distribution has not been authorized (and whose publication or distribution is therefore prohibited) was inconsistent with the TRIPS obligations. China thereafter revised the Copyright Law, under which copyright holders shall exercise their rights in compliance with the Constitution and Laws; publication and distribution of the works shall be subject to the regulation of the relevant laws. The case may be the end of the beginning on the issue of Internet censorship, particularly the measures of content blocking. The Paper attempts to research whether blocking certain contents from being accessed in the country, which is the *de facto* prohibition from exercise of any rights in that

country, possibly complies with the TRIPS requirements or subtly eligible to a public order defense under the GATT.