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AFD China Recommended in Patent Prosecution and Patent Contentious by Asia IP

Recently, renowned intellectual property magazine Asia IP announced the result of its 2021 Patent Survey, which has been published in the September issue of Asia IP. In this survey, AFD China was recognized as a recommended firm for its outstanding performance in patent prosecution and patent contentious.

AFD China has been participating in the annual surveys of Asia IP for years. In recent years, while keeping providing clients with quality services in patent prosecution, we have also been strengthening our services in patent litigation and contentious. Our ranking of a tier 2 firm in patent contentious this year is a recognition of our achievements and persistence in the principle of “thinking from the point of view of legislative intent”.

<http://afdip.com/index.php?ac=article&at=read&did=3>
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China Maps out Blueprint for Building up IP Strength in New Era

China recently issued Guidelines for Building a Powerful Country with Intellectual Property Rights (2021-2035), which charts the route to advancing the development of intellectual property rights (IPR) in the next 15 years and represents a milestone in the country’s IPR sector.

By 2025, remarkable achievements shall be made in the building of a powerful intellectual property nation, the protection of intellectual property shall be more stringent, social satisfaction shall reach and remained at a relatively high level, the market value of intellectual property shall be further highlighted, brand competitiveness shall be significantly improved, the added value of patent-intensive industries shall account for 13% of GDP, the added value of copyright industries shall account for 7.5% of GDP, the total annual import and export amount of intellectual property use fees shall reach 350 billion yuan, and the number of high-value invention patents per 10,000 people will reach 12.

China’s overall IPR competitiveness will be at the forefront of the world by 2035, when the country will basically become a world-class IPR power with Chinese characteristics.

The Guidelines also set more general goals including:

- Constructing an intellectual property system oriented to socialist modernization;
- Constructing an intellectual property protection system that supports a world-class business environment;
- Constructing an intellectual property market operating mechanism that encourages innovation and development;
- Constructing the Public Service System of Intellectual Property Right for the Convenience and Benefit of the People;

- Constructing a Humanistic Social Environment for Promoting the High Quality Development of Intellectual Property Rights;
- Deep participation in global intellectual property governance; and
- Organizational Strengthening

<http://english.ipraction.gov.cn/article/ns/202109/356418>

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China to Accelerate Review of High-value Patent Invention

China will accelerate the review of high-value patent inventions to boost innovation and strengthen intellectual property rights protection, according to the National Intellectual Property Administration (CNIPA).

Guided by the country's demands and user experience, the intellectual property authorities will further improve the quality and efficiency of patent review. Currently, the review cycle of an application for a high-value patent invention is around 13.3 months. The average review cycle for a general patent invention application is approximately 19.1 months.

<http://english.ipraction.gov.cn/article/ns/202108/353831>

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CNIPA Provides Interpretation of Administrative Adjudication of Patent Linkage Measures

The China National Intellectual Property Administration recently released the Interpretation of the Administrative Adjudication Measures for Early Resolution Mechanism of Drug Patent Disputes.

The Interpretation on 7 points as follows:

1. Petitioner

Petitioner of an administrative adjudication can be the patentee or interested party of the relevant patent and the applicant for drug marketing approval. Among them, the interested party refers to the licensee of the relevant patent or the holder of the marketing approval of the registered drug.

2. Time limit

Patentee or interested party may, within 45 days from the publication of the drug marketing application by the State Drug Evaluation Agency, submit an administrative adjudication petition confirming that the drug-related technical scheme applying for marketing approval falls within the scope of protection of the relevant patent right.

If the patentee or interested party fails to bring a lawsuit to the people's court for the drug patent dispute or fails to file an administrative ruling request within 45 days, the applicant for the drug marketing approval may file an administrative petition requesting for confirmation that the drug-related technical scheme applying for the marketing approval does not fall within the scope of protection of the relevant patent right.

3. Scope of drug patents

A drug patent that can be adjudicated must meet the following conditions, that is, the relevant patent information has been registered and made public on China's listed drug patent information registration platform, and the patent type in compliance with the relevant provisions of the Measures for the Implementation of the Mechanism for Early Resolution of Drug Patent Disputes (Trial).

The specific drug patents that can be registered in China's listed drug patent information registration platform include patents for

- pharmaceutical active ingredients (excluding active pharmaceutical ingredients), patents for

pharmaceutical compositions containing active ingredients, and patents for medical use, of chemicals;

- Chinese medicine compositions, Chinese medicine extractions, and medical use; and
- Sequence structure and medical use of active ingredients, of biological products;

And do not include patents on intermediates, metabolites, crystal forms, preparation methods, detection methods, etc.

4. Coordination between administrative adjudication and the judicial channel

An administrative adjudication is not available if the dispute has been filed with a people's court. If the same patent dispute has been filed with a people's court, the CNIPA will not accept the petition for administrative adjudication made by the parties, so as to avoid any waste and conflict of procedures.

5. Relationship between administrative adjudication and invalid procedures.

If part of the claims involved in the relevant patent are declared invalid during the administrative adjudication of drug patent disputes, the CNIPA will make an administrative adjudication on the basis of the remaining valid claims. If all the claims involved in the relevant patent are declared invalid, the CNIPA will reject the petition for administrative adjudication. In addition, if a party petitions for invalidation of the relevant patent during the administrative adjudication, the CNIPA may not suspend the case handling.

6. Implementation and disclosure

After an administrative adjudication ruling is made, it shall be served on the party concerned and copied to the Pharmaceutical Supervisory and Administrative Department under the State Council, and made public to the public in accordance with relevant regulations. When the administrative

adjudication ruling is made public, the information concerning trade secrets shall be deleted.

The patentee or interested party shall submit the administrative adjudication ruling to the State Drug Evaluation Agency within 10 working days after receiving it.

7. Judicial relief

If a party refuses to accept the administrative adjudication ruling on drug patent disputes made by the CNIPA, he may bring a lawsuit to the people's court within 6 months from the date of service of the administrative adjudication ruling.

https://www.cnipa.gov.cn/art/2021/9/18/art_66_170253.html

2021 Global Innovation Index: China Ranks 12th Worldwide

As per the WIPO's "Global Innovation Index (GII) 2021" released recently, China is still the only middle-income economy among the world's top 30 most innovative countries. It has established itself as a global innovation leader and is approaching the top 10.

According to the report, China has made continuous progress from ranking 14th last year to 12th this year and is now "knocking at the door of the GII top 10." This year, China also reached the top three in the Southeast Asia, East Asia and Oceania (SEAO) region for the first time.

According to Sacha Wunsch-Vincent, co-editor of the GII, China's success story can be explained by its consistent and persistent innovation policy planning and execution for more than three decades, as well as by the fact that it has impressively increased spending on education, science and technology.

But, more importantly, it is the country's ability to translate pro-innovation policy and innovation inputs into sound results, such as intellectual property, innovative products and high-tech exports.

The latest GII results indicate that in terms of innovation clusters geographically, although the top 10 list remains the same as last year with only minor shifts, Shenzhen-Hong Kong-Guangzhou and Beijing now rank second and third, respectively, after the Tokyo-Yokohama cluster in Japan. Shanghai ranks eighth. Of the top 100 clusters, China has 19.

<http://english.ipraction.gov.cn/article/ns/202109/356415>

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China Leads Global 6G Patent Applications

China has taken a leading role in 6G patent applications in the world, outweighing the US and Japan, according to Nikkei.

China's 6G patent applications account for 40.3 percent of the world total, crowning the list of global 6G patent filings, said a survey conducted by Nikkei in partnership with Tokyo-based research company Cyber Creative Institute.

The US and Japan took second and third spots on the list with 35.2 and 9.9 percent 6G patent filings, respectively, followed by Europe with 8.9 percent and South Korea with 4.2 percent, the report said.

Nikkei and Cyber Creative Institute studied around 20,000 patent applications for nine core 6G technologies, including communications, quantum technology, base stations and artificial intelligence.

The upcoming 6G mobile communications technology is expected to enable fully autonomous driving, high-definition virtual

reality and worldwide internet connections, even in remote deserts.

China's patent applications are mostly related to mobile infrastructure technology with Huawei, State Grid Corporation of China, and China Aerospace Science and Technology as the big Chinese patent holders.

<http://english.ipraction.gov.cn/article/ns/202109/355906>

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Chinese AI Company files Injunction Against Apple

On September 3, Chinese artificial intelligence company Shanghai Zhizhen Intelligent Network Technology Co., Ltd. ("Xiao Robot"), filed an injunction with the Shanghai High People's Court, demanding that Apple Computer Trading Shanghai Ltd. ("Apple") cease "manufacturing, using, promising to sell, selling, and importing" products that infringe on its patent (patent no. ZL200410053749.9).

Xiao Robot argued that Siri infringed on its patent that it applied for in 2004 and was granted in 2009. Siri is a virtual assistant that is part of Apple Inc.'s iOS, iPadOS, watchOS, macOS, and tvOS operating systems. Siri was acquired by Apple in 2010 and then integrated into iPhone 4S at its release in October 2011.

In August 2020, Xiao Robot filed a lawsuit against Apple with the Shanghai High People's Court, calling for 10 billion yuan (\$1.4 billion) in damages for patent infringement.

<http://english.ipraction.gov.cn/article/tc/202109/354832>

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