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CNIPA Releases Guidelines for Trademark Examination and Trial

In November, 2021, China National Intellectual Property Administration (CNIPA) issued Announcement No. 462, releasing the Guidelines for Trademark Examination and Trial (“Guidelines”), effective January 1, 2022, to supersede the previous Standards for Trademark Examination and Trial.

The Guidelines is aimed to standardize the procedures for trademark examination and trial and ensure that the application of laws and standards in all procedures of trademark examination and trial are consistent. Since the implementation of the Trademark Law in 1983, this is the first comprehensive set of trademark examination and trial standards which cover the whole proceedings of trademark prosecution. The issuance of the Guidelines as a normative announcement of the CNIPA is a great milestone in the development of trademark-related regulations.

https://www.cnipa.gov.cn/art/2021/11/22/art_74_171575.html

CNIPA Releases Opinions on Determining the Scope of Trademark Applications That Meet General Situations

On May 10, 2021, the CNIPA issued a notice which clearly stated that "By the end of 2021, the average examination period for trademark

registration will stabilize at less than 4 months, and the period for trademark registration that meets general situations will be reduced from 8 months to 7 months". The so-called "general situations" means that the formalities for registration of a trademark application are in place, and the trademark application can be directly granted a preliminary approval or rejected upon examination, and there is no follow-up procedure such as rejection review or opposition. For trademark applications that meet general situations, the average registration period from the date of filing to the announcement of trademark registration is reduced to seven months.

In order to allow the public to effectively and equally benefit from the reform of innovation environment, and also in order to enhance the satisfaction of the public, the trademark office of the CNIPA formulated the Opinions on Determining the Scope of Trademark Applications That Meet General Situations (“Opinions”) based on their experiences in trademark examination. The Opinions is aimed to precisely determine the scope of trademark applications that meet general situations, promote the reduction of trademark registration period in accordance with the law, and thus enable the trademark applications that meet general situations to truly benefit from the reform.

http://sbj.cnipa.gov.cn/gzdt/202111/t20211108_336502.html

China's National Intellectual Property Administration Releases English Language Guidelines on Trademark Protection and Enforcement

The CNIPA released the English-language Guidelines for the Legal Protection and Enforcement of Chinese Trademarks. The Guidelines "introduce China's trademark protection system in detail, covering the entire process of registration application, review, opposition, infringement and relief, and provides online search, online application, and trademark protection strategies."

You can download the full text of the Guidelines from the following link.

<https://www.cnipa.gov.cn/module/download/downfile.jsp?classid=0&showname=%E9%99%84%E4%BB%B61%EF%BC%9A%E4%B8%AD%E5%9B%BD%E5%95%86%E6%A0%87%E6%B3%95%E5%BE%8B%E4%BF%9D%E6%8A%A4%E5%92%8C%E6%89%A7%E6%B3%95%E6%8C%87%E5%8D%97%EF%BC%88%E8%8B%B1%E6%96%87%E7%89%88%EF%BC%89.pdf&filename=25e5039376614da5b185ea0ee0875023.pdf>

CNIPA Collects Fees for international phase of PCT applications based on the amounts in CNY published by the WIPO

From December 1, 2021, the CNIPA will collect fees for international phase of PCT applications based on the amounts in CNY published by the World Intellectual Property Office (WIPO).

For the PCT applications filed and received on or after December 1, 2021, and the requests for preliminary examination received on or after December 1, 2021, CNIPA will charge the relevant fees based on the following standards:

1) International Filing Fee

International application document within 30 pages:	CNY9260
Per page in excess of 30	CNY100

E-filing Reductions (for PDF format)	CNY1390
E-filing Reductions (for XML format)	CNY2090

2) Formality Fee CNY1390

The WIPO will annually publish the amounts in CNY of fees payable for international phase of PCT applications and the amounts are to be valid for one year. However, if there are big changes in currency exchange rates, the amounts in CNY will be adjusted accordingly.

https://www.cnipa.gov.cn/art/2021/11/27/art_332_171743.html

Plan Looks to Boost IPR Protection

In the latest move to shore up its business environment, China has unveiled a new blueprint for the protection of intellectual property rights over the next five years, pledging to effectively curb IPR infringement.

Officials and experts said that the five-year plan recently issued by the State Council, China's Cabinet, has laid out goals for tougher legislation and paved the way for stronger law enforcement in key sectors.

According to the document, China will enforce a punitive compensation system for IPR infringements to curb violations.

Amendments will be made to the patent, trademark, copyright and antitrust laws, and legislation regarding a product's geographical indication and commercial secrets will be ramped up.

The document calls for the improvement of the protective mechanisms covering emerging areas and new business models, including big data, artificial intelligence and gene technology, and aims to boost research into the formulation of data IPR protection regulations.

Protection for intangible cultural heritage will be stepped up, and stronger safeguards for sports, entertainment programs and

livestreaming will be implemented. The government will also establish a damage evaluation mechanism for IPR infringements, the document added.

China will launch a special program for data IPR protection, explore related legislation and promote amendments to relevant laws and regulations.

China will take steady, proactive steps to develop IPR finance, including measures to refine the financing system through IPR mortgages, as well as improve the risk management mechanism.

<http://english.ipraction.gov.cn/article/ns/202111/362343>

[.html](#)

China to Boost International IPR Cooperation

China is endeavoring to promote a broader and deeper opening-up of the intellectual property rights sector to boost international IPR cooperation during the 14th Five-Year Plan period (2021-25), said the IPR authorities at press conference. The IPR authorities have drafted three major moves targeted to make breakthroughs in IPR global cooperation.

Firstly, China will actively participate in the IPR global governance, play roles in improving international rules on IPR, and actively promote multilateral and bilateral intellectual property negotiations related to the economy and trade.

China will strengthen cooperation and consultation with the WIPO, as well as promote improvement to IPR international rules and standards related to international trade and investment.

The country will also study and participate in the formulation of IPR international rules and standards in new fields and new business forms.

Secondly, China will improve its international cooperation on IPR, strengthen mechanisms

for IPR international cooperation, and optimize the environment for IPR international cooperation.

Thirdly, China will strengthen international cooperation in IPR protection, facilitate overseas IPR acquisition, and strengthen assistance in IPR disputes.

China will strengthen international cooperation in IPR reviews, support better use of the WIPO global service system, and establish international IPR risk early-warning and emergency response mechanisms.

<http://english.ipraction.gov.cn/article/ns/202111/362088>

[.html](#)

CNIPA Accepts the First Batch of Administrative Adjudication Cases on Major Patent Infringement Disputes

CNIPA has recently accepted the first two administrative adjudication cases on major patent infringement disputes in accordance with relevant provisions in the Patent Law of the People's Republic of China and the Administrative Adjudication Measures for Major Patent Infringement Disputes.

The requestor submitted the request materials for administrative adjudication in accordance with Article 5 of the Administrative Adjudication Measures for Major Patent Infringement Disputes, and reported to relevant local IP offices to issue the supporting evidence that meets the circumstances described in Article 3 of the Measures. After examination, CNIPA filed the cases, issued the notice of acceptance, appointed case-handling personnel to form a panel, and assigned technical inquisitors of relevant fields to engage in the handling of the cases.

In the future, CNIPA will, in strict accordance with relevant provisions of the Patent Law and the Measures, ensure effective handling of administrative adjudication of related cases,

organize oral hearings in accordance with procedures, and make administrative adjudication decisions in time, in order to maintain the market order of fair competition and guarantee the legitimate interests of IPR holders and the public.

<http://english.ipraction.gov.cn/article/ns/202112/363428.html>

China Sees Increased International Competitiveness in Intellectual Property

Increased international competitiveness in the area of intellectual property (IP) is one of China's achievements in transforming from a big IP importer to an innovator, said the CNIPA in Beijing.

To summarize the achievements, Lei Xiaoyun, a senior official with the administration, cited three indicators, one being the trade of China's IP royalties, which was close to 280 billion yuan (about \$44 billion) in the first three quarters of this year. The export volume of IP royalties, in particular, increased over 27 percent year on year.

The second one is the Global Innovation Index by the WIPO, in which China climbed to 12th this year, up two notches from 14th in 2020, ranking first among the world's mid-income economies.

"China has risen 23 places in the rankings since 2012. The continuous growth reflects China's decades-long commitment to investing in science, technology and education, as well as its progress in building a modern and effective IP system," Lei noted.

The third indicator is China's IP pledge financing, or the use of IP assets (trademarks and patents) to gain access to credit, which reached 240.77 billion yuan between January and October, up 50.6 percent year on year, already exceeding the total amount of that in 2020, according to Lei.

<http://english.ipraction.gov.cn/article/ns/202112/363827.html>

China Makes Progress in International IPR Cooperation: Official

China has deepened its international cooperation in the field of intellectual property rights (IPR) protection, becoming an active proponent of international rules for IPR, said an official with the CNIPA.

In summarizing the country's achievements in international cooperation on IPR, Hu Wenhui, a spokesperson for the CNIPA, highlighted that China has made decisive progress in joining the Hague Agreement for the international registration of industrial designs, a mechanism aimed at boosting intellectual property protection.

"China has successfully promoted the renminbi as the pricing and settlement currency of international expenses related to the Patent Cooperation Treaty," Hu said, adding that Chinese has become the working language of the International Union for the Protection of New Varieties of Plants.

Another example, Hu said, is that China has implemented the China-EU Agreement on Geographical Indications, with 244 China-EU geographical indications (GIs) being mutually recognized and protected.

A GI shows a product has a specific geographical origin and possesses qualities or a reputation due to that origin. It can be seen as a quality guarantee that distinguishes it from its competitors.

To offer guidance to Chinese entities on resolving overseas intellectual property disputes, China has also established 22 centers worldwide, handling over 480 cases to date, according to the CNIPA.

<http://english.ipraction.gov.cn/article/ns/202112/363829.html>

SUPPLEMENTARY ISSUE

In November, 2021, AFD China Partnered with the Capital Intellectual Property Services Association for the Fourth Time to Fund Rural Students

As the world's third largest country, China has large areas of mountainous land. Although the scenery in the mountain regions is stunning, most of the people living in such areas are deeply poor due to weak infrastructure and insufficient education resources. Xingwen County is just such a poor place. For people there, making a living is already very difficult, not to mention having a dream of a bright future. To support their families, young people there have to leave their hometown and head to cities to work, leaving the elders and the children behind.

To help the children in Xingwen County receive education and gain the ability to get rid of poverty in the future, the Capital Intellectual Property Services Association has been providing study and living funds to school-aged children there for several years. We, AFD China, also would like to make joint efforts with the Association to help children there gain the opportunity to change their fate. Since 2018, AFD China has been actively participating in the "Light up Wisdom" project launched by the Association and funding the study and living expenses of over 10 children each year. In 2021, the Association planned to provide financial aids to 77 children in total, and we continued to subsidize the study and living expenses of 8 children who we have helped for two years.

"The choices you make today determine your tomorrow". It is fortunate for a person to have the chance to make choices among different possibilities. To make a choice, however, first you need to have the ability to find that there is more than one option, and you also need to have the courage and confidence to withstand bad results. Such ability and confidence come from knowledge. For those who are completely illiterate, they do not know the power of knowledge and have no interest in reading or writing, and perhaps the land under their feet and the sky above their heads are their only concern because their life depends on the crop yield of the land while the crop yield depends on the weather. For them, the needs of society, the dilemma between dreams about the future and the worries in real life, etc., which often "torture" urban people, are just unnecessary troubles created by the people themselves. With joint efforts with the Association, we hope that those children can have the ability and courage to make "choices", instead of being trapped in one place with a limited outlook.

We will continue paying attention to children in need and hope that they will be given the opportunity and the right to make "choices". We hope that more and more people will join such charity activities and work together with us to try to make a difference in the lives of those children.

Philanthropists are not saviors, and doing charity is not for a good reputation. We just hope that kindness and goodwill can be passed on from people to people, and that those who need help can feel the warmth of the society and understand that distance cannot separate the hearts that really care, so that others' care and love can grow in the hearts of those in need and burst into the most beautiful blossom.

China's Supreme People's Court Clarifies Rules On How To Deal With Infringement Proceedings Regarding Invalidated Integrated Circuit Layout Designs

Recently, the SPC, through its Judgement for the Case (2021) ZuiGaoFaZhiMin Zhong No. 1313, clarified the rules on how to deal with infringement proceedings regarding an integrated circuit

layout design where the exclusive right of the integrated circuit layout design has been revoked. In this judgement, the SPC pointed out that under the circumstance that the exclusive right of the involved integrated circuit layout design had been revoked, the plaintiff's lawsuit was rejected by making reference to the treatment of infringement proceedings regarding a patent where the patent has been declared invalid.

In this case, the plaintiff, i.e. the right holder of the exclusive right of the integrated circuit layout design with the registration No. BS.095006249, held that the defendant's chip with the model No. AiP1637 copied the plaintiff's layout design and thus violated the plaintiff's exclusive right. Therefore, the plaintiff filed a lawsuit, requesting the defendant to stop the infringement and compensate for the losses. During the first-instance trial, the defendant filed a revocation request against the involved layout design with the CNIPA. On February 18, 2021, the CNIPA issued a decision to revoke the integrated circuit layout design with registration number BS.095006249. Then, the court of first instance, after hearing, determined that the plaintiff had lost the basis of the right to file this lawsuit, and thus rejected the lawsuit.

Unsatisfied with the first-instance judgement, the plaintiff appealed to the SPC, arguing that they had filed an administrative lawsuit against the CNIPA's decision of revoking the involved integrated circuit layout design, so the first-instance trial should have been suspended. The plaintiff also held that although the *Interpretation (II) of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Disputes over Infringement of Patent Rights* stipulates that "Where the claim alleged by the right holder in a patent infringement lawsuit is declared invalid, the court hearing the patent infringement dispute may rule to reject the lawsuit brought by the right holder based on the invalidated claim", such regulations are limited to patent infringement disputes, and there are no similar provisions in laws, regulations or judicial interpretations with respect to disputes about the exclusive right of integrated circuit layout designs, so the trial should have been suspended.

The SPC held that, although the appellant (i.e. the plaintiff in the first-instance trial) filed an administrative lawsuit against the CNIPA's decision within the statutory time limit, the basis of its right was still uncertain, and if the CNIPA's decision was not ultimately revoked by an effective judgement, the plaintiff's exclusive right of the involved integrated circuit layout design would be deemed as non-existent from the beginning, and thus the plaintiff would lose the basis of the right to bring this lawsuit. If the court of first instance had suspended the trial to await the outcome of the administrative litigation, the first- instance trial would probably have remained unresolved over a long time. Moreover, the infringement upon the exclusive right of an integrated circuit layout design is also a dispute about intellectual property rights, so in the case that the exclusive right of the involved integrated circuit layout design had been revoked, the plaintiff's lawsuit could be rejected by making reference to the treatment of infringement proceedings regarding a patent where the patent has been declared invalid. If the CNIPA's decision of revoking the exclusive right of the integrated circuit layout design is subsequently revoked by an effective administrative judgment, and the plaintiff's exclusive right of the involved integrated circuit map design is definitely stable, the appellant (i.e. the plaintiff in the first-instance trial) may bring another lawsuit and this will not cause serious harm to its legal rights. The SPC therefore ruled against the appellant and upheld the first-instance judgement.

<https://mp.weixin.qq.com/s/DhS8TyZ8atBHxKVmFD0qBg>