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CNIPA Holds a Regular Press Conference to Introduce IP Culture Development for the First Time

The IP culture concept of respecting knowledge, advocating innovation, integrity, law-abiding, and fair competition has penetrated deep into the hearts of the public and provided strong support for building China into an IP powerhouse. On March 30, the China National Intellectual Property Administration (CNIPA) held a regular press conference, introducing IP culture development and the future work plan for the first time. Heng Fuguang, Spokesperson and Deputy Director General of the General Affairs Office of the CNIPA, spoke at the meeting.

The reporter learned at the press conference that, over the years, the CNIPA has made continuous efforts to promote IP culture development and played an active part in fostering a publicity paradigm featuring the involvement of multiple parties and coordination with other fields. The awareness of respecting and protecting intellectual property rights (IPRs) has been significantly improved in the whole society, and innovative entities have leveraged IPRs to shore up their competitiveness.

Four features of the 2022 National IP Publicity Week. The 2022 National IP Publicity Week activities, with the theme of "Embarking on a New Journey to Build China into an IP Powerhouse", highlight four features of paying more attention to the theme and main tasks,

focusing on IP work at the community level, strengthening communication and interaction, and telling stories well.

A total of 690,000 IP professionals in China. IP specialists is the most fundamental, core and critical element in developing the IP industry and helping China become a global center for IPRs. In terms of personnel training, it's learned that more than 50 universities across China have established IP colleges and hundreds of universities have set up IP majors, along with 26 national IP training bases nationwide. For the evaluation of IP professionals, Feng stated that IP will be officially included in the professional subjects of China's national economic professional and technical qualification examination.

<http://english.ipraction.gov.cn/article/ns/202204/375073.html>

China's Supreme People's Court issues Judicial Interpretation on the Anti-Unfair Competition Law

On 17 March 2022, the Supreme People's Court issued the Interpretation on *Several Issues Concerning the Application of the Anti-Unfair Competition Law of the People's Republic of China* (hereinafter referred to as the Interpretation), which came into effect on 20 March 2022. The Interpretation has a total of 29 articles and makes detailed provisions on Article 2 of the Anti-Unfair Competition Law,

counterfeiting and confusion, false publicity, and online unfair competition, etc.

The Interpretation is an important measure for the Supreme People's Court to deeply study and implement Xi Jinping's Thought on the Rule of Law, give full play to the role of intellectual property adjudication, and respond to the judicial needs of new fields and new industries in a timely manner. The implementation of the Interpretation is of great significance for strengthening the anti-unfair competition judiciary, strengthening the basic position of competition policy, and promoting the formation of an efficient, standardized and unified domestic market with fair competition.

See the link below for the full text of the Interpretation:

<https://www.court.gov.cn/fabu-xiangqing-351291.html>

CNIPA-EAPO PPH Pilot Program Extended

According to a decision jointly made by CNIPA and EAPO, the CNIPA-EAPO PPH pilot program, launched on April 1, 2018, will be extended for another year between April 1, 2022 and March 31, 2023. Relevant requirements and procedures to submit PPH requests to the two offices remain unchanged.

http://english.cnipa.gov.cn/art/2022/3/11/art_1340_173992.html

Copyright Registrations Soar in China

China saw a rapid increase in copyright registrations last year, mainly covering art, photos and literature works, the country's top copyright regulator said on March 23, 2022.

Last year, 3.98 million works were copyrighted, up about 20 percent year-on-year, according to statistics released by the National Copyright Administration.

Of the total, a quarter of the works were registered in Beijing, and paintings made up the bulk of registered works nationwide, it said.

Last year, the country also witnessed a rise in software copyright registrations — 2.28 million — up about 32 percent year-on-year, the administration said. It added that many of them involved east China's provincial-level regions, including Shanghai and Jiangsu.

<http://english.ipraction.gov.cn/article/ns/202203/374288.html>

Chinese Companies File Record Number of European Patent Applications in 2021

The number of European patent applications from Chinese companies in 2021 hit a new record of 16,665, the Munich-based European Patent Office (EPO) said on Tuesday.

In total, EPO recorded 188,600 patent applications from all over the world last year, 4.5 percent more than in the previous year. Growing at 24 percent, Chinese companies recorded the highest rate among the 30 leading patent filing countries.

"Over the past 10 years in the European Patent Office, we've seen that the number of patent applications from Chinese companies has increased four times in 2021," Aidan Kendrick, EPO Chief Business Analyst, told Xinhua.

"What we see in 2021 is continued dynamic growth of applications from China at the European Patent Office. In 2021, the rate of increase with some 24 percent, which represents an extremely dynamic development," he added.

In the field of digital communications, which accounted for the most patent applications, Chinese companies were already the biggest patent filer with a share of 29 percent in 2021. In other fields, such as biotechnology and audio-visual technology, filings by Chinese companies skyrocketed by up to 75 percent.

With 3,544 filings, Chinese tech giant Huawei filed more patent applications in 2021 than any other company, ahead of Samsung and LG from South Korea, according to the EPO.

For the first time, all top six Chinese companies, including Oppo, ZTE, Baidu, Xiaomi and Tencent, were also listed among the 50 largest European patent applicants.

<http://english.ipraction.gov.cn/article/ns/202204/374797.html>

Top Court Details 10 Major Cases of Seed Fraud

China's top court pledged to strengthen intellectual property protection in the seed industry and associated sectors to ensure food safety and promote innovation.

The SPC gave details of 10 important IPR cases involving seeds on Thursday, two of which were criminal cases, demonstrating the judiciary's determination to protect IPR and punish seed-related IPR violations.

In one of the cases, for example, three people were fined and given sentences ranging from 30 to 34 months for selling fake seeds by a court in Central China's Henan province.

The SPC said that the three defendants had benefited from selling fake pea seeds to five farmers between October and November 2019, causing financial losses of more than 140,000 yuan (\$22,040).

"The quality of seeds affects incomes and agricultural development, so we must fight those who produce or sell fake seeds," the top court said in a statement.

The punishment handed down to the three defendants, who knowingly sold fake seeds that would adversely affect farmers, was intended to protect the farmers' rights and interests, as well as serve economic development.

The other eight were civil cases mainly related to new varieties of plants, and included cases involving pear, cucumber and soybean seeds.

<http://english.ipraction.gov.cn/article/ns/202204/374780.html>

China Sees Progress in Crackdown on IPR infringement in 2021

China saw progress in its crackdown on copyright infringement and counterfeiting in 2021, part of efforts to enhance intellectual property rights (IPR) protection, the country's top market regulator said on March 11.

Last year, market regulators at various levels handled nearly 515,000 cases related to IPR protection, including about 36,000 trademark violation cases, according to a statement issued by the State Administration for Market Regulation.

More than 84,000 enforcement operations were carried out in key markets where infringements and counterfeiting are frequent, the statement said.

The administration further strengthened the governance over key fields, commodities and markets during the period to protect the legitimate rights of consumers and create a sound business environment.

<http://english.ipraction.gov.cn/article/ns/202203/373547.html>

SUPPLEMENTARY ISSUE

AFD China Recognized As a Recommended Firm Again by WTR 1000

In March, 2022, the internationally renowned trademark research directory WTR 1000 announced its 2022 rankings. Our firm AFD China, by virtue of its last year's outstanding performance in trademark prosecution and strategy, was again recognized as a leading firm (silver band) by WTR 1000. Ms. Xia Zheng, the founder of AFD China, was also honored as a recommended individual (silver band) in the rankings for her extensive and excellent trademark expertise.

WTR 1000 is a world's leading resource platform for trademark professionals. Each year, WTR 1000 would select leading trademark law firms in key jurisdictions around the world for inclusion in the annual WTR 1000 ranking based on the firms' number of cases, client influence, market presence and representative cases, etc. The researchers at WTR 1000 pay close attention to the annual changes in the business and management of the firms, as well as the development trends of trademark market in various jurisdictions. As a comprehensive and definitive list recognized by the world's leading trademark practitioners, the WTR 1000 ranking tables become an authoritative 'go-to' resource for those seeking world-class legal trademark expertise.

AFD China has been participating in the annual ranking surveys of WTR 1000 for several years. Being recognized as a leading firm consecutively by WTR 1000 is not only an affirmation of our quality services and professional capabilities but also a recognition of our persistence in the principles of "honesty and faith". Here we would like to express our sincere gratitude to all of our clients who have been trusting and supporting us. In the new year, we will continue to use our expertise to help you better protect your trademark rights.

Meantime, we also want to thank all our colleagues who have been growing together with AFD, and hope that in the new year we can continue to forge ahead together. As always, we will ensure the efficiency and quality of our services, strengthen communication with clients, and provide clients with targeted solutions and take the client's needs as the starting point of our work. We will dig deep into the original intention of the legislation and try our best to safeguard the clients' rights and interests.

In addition, our attorney Ms. Xia Zheng was also lauded for being highly sensitive and super responsive to clients' issues.

In 2022, we will move ahead with our original aspiration and strive to play our part in establishing a more stable and prosperous trademark market.

SPC exemplary case of 2021: Appotronics Corp. Ltd. v. CNIPA

The SPC on July 28, 2021 brought an end to the lingering litigation between Japanese multinational electronics manufacturer Casio Computer Co., Ltd. and Chinese rival Appotronics Corp. Ltd..

The case on February 28 was identified by the top court as one of the 48 representative cases of the 3,460 ones in which it issued rulings in 2021. As a guiding principle distilled by the court, the case shows that the term "special technical features" is defined as meaning those technical features that define a contribution which each of the inventions considered as a whole, makes over the prior art.

In 2016, Appotronics filed a petition with the CNIPA to invalidate Casio's patent ZL201010293730.7 related to a light source device, a projection apparatus, and a projection method. Casio filed an application for the patent with the CNIPA in 2010, which was granted by the agency in 2013. The Reexamination and Invalidation Board of the CNIPA dismissed Appotronics's challenge to the issued patent and affirmed the agency's decision.

In 2017, Appotronics filed an administrative lawsuit against the CNIPA with the Beijing Intellectual Property Court to reverse the CNIPA's decision. The trial court agreed with Appotronics's arguments, revoking the CNIPA's ruling and remanding the case for a retrial. The court invalidated Casio's patent for lack of inventiveness. The CNIPA and Casio appealed the case to the Supreme People's Court.

The high court found for the appellants and upheld the CNIPA's decision in July, 2021.

The case docket no. is (2020) 最高法知行终 155 号, whose English transliteration is 155, second instance (终), administrative case (行), intellectual property (知), (2020) Supreme People's Court (2020) 最高法).

<http://www.chinaipmagazine.com/en/news-show.asp?id=12439>

SPC exemplary case of 2021: ALC Tecnologie Adesive S.r.l. v. Wenzhou Xinggeng Shoe Materials Co., Ltd.

The SPC on April 8, 2021 upheld a lower court ruling that Chinese adhesive manufacturer Wenzhou Xinggeng Shoe Materials Co., Ltd. was liable for infringing Italian rival ALC Tecnologie Adesive S.r.l.'s patent. The top court increased the damages award for ALC to 200,000 yuan (\$32,000).

The case on February 28 was identified by the top court as one of the 48 representative cases of the 3,460 ones in which it issued rulings in 2021. As a guiding principle distilled by the court, the case shows that the term "use environment features" is used to describe and define the backgrounds or conditions where an invention is used in the claims of patents. According to the top court, use environment features are not limited to the technical features related to the installation position or connection structure of protected objects, but include technical features related to their usages, application methods under certain circumstances.

Turin city, Italy-based ALC was founded in 2009 and has been producing technical adhesives and tapes suited for different industries for over 20 years. Its high-tech products are popular in the high fashion footwear industry. ALC filed an application for the patent ZL200780032234.2 for a machine and method for applying an adhesive layer to a surface of an object, such as an inner sole of a shoe with the CNIPA in 2007, which was granted by the agency in 2011.

ALC filed a lawsuit in 2018 with the Ningbo Intermediate People's Court of Zhejiang province against Xinggeng accusing it of manufacturing and distributing machines and adhesives infringing the patent ZL200780032234.2.

Xinggeng filed a request with the CNIPA to invalidate the asserted patent in 2018. In July, 2019, the CNIPA affirmed the validity of the patent.

The trial court found for the plaintiff and ordered the defendant to pay 60,000 yuan (\$9,500) in damages to the plaintiff. Both parties appealed the case to the SPC. The top court upheld the plaintiff's win and awarded it 200,000 yuan (\$32,000) in damages and 50,000 yuan (\$7,900) in reasonable expenses.

The case docket no. is (2020) 最高法知民终 313 号, whose English transliteration is 313, second instance (终), administrative case (行), intellectual property (知), (2020) Supreme People's Court ((2020) 最高法).

<http://www.chinaipmagazine.com/en/news-show.asp?id=12446>

China's Top 10 Copyright Events in 2021

Recently, China's Top 10 Copyright Events in 2021 were selected and released by the National Copyright Administration of China (NCAC).

1. Newly amended Copyright Law Coming into Effect

The Third Amendment to Copyright Law came into effect on June 1, 2021, which was a milestone event of China's copyright development. In response to the new demands of economic and social development and emerging expectations of the public, the amendment followed the principles of protecting rights, encouraging creation, promoting dissemination and balancing interests. The amendment improved copyright legal system, strengthened copyright protection, brought the Copyright Law in harmony with other laws, and helped implement the obligations provided for in the international copyright treaties China had joined in recent years. The amendment would serve as an important legal support for maintaining copyright order, increasing copyright governance effectiveness and promoting the prosperous development of socialist culture and science.

2. Marrakesh Treaty Ratified by NPC Standing Committee

The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, the world's first and only copyright treaty to include a clear human rights perspective, was ratified on October 23, 2021 by the Standing Committee of the 13th National People's Congress (NPC) at its 31st Session. The treaty's ratification could better safeguard the cultural rights and interests of people with print disabilities in China by enabling them to equally appreciate works and receive education, thus facilitating the universal access to cultural achievements. Furthermore, it also created favorable conditions for providing works in accessible format to print-disabled people outside China and further expanding the overseas coverage of excellent Chinese works.

3. Judicial Protection of Copyright Strengthened

The Amendment (XI) to Criminal Law came into effect on March 1, 2021. In the Amendment, criminal protection was introduced for rights of communication through information network and performers' rights, and the upper limit of statutory penalties for two crimes involving copyright infringement was raised to 10 years' imprisonment for copyright infringement and 5 years' imprisonment for selling infringing copies. On March 3, 2021, the Interpretation on the Application of Punitive Damages in Civil Cases of Infringement of Intellectual Property Rights was issued by the Supreme People's Court to guide local courts to accurately apply punitive damages and punish serious infringements of intellectual property rights. The implementations of the Amendment and judicial interpretation are of great significance for maintaining copyright order by further strengthening the judicial protection of copyright.

4. Copyright Work Plan for 14th FYP Period Released by NCAC

The Sixth Plenary Session of the 19th CPC Central Committee incorporated into its resolution strengthening the creation, protection and utilization of intellectual property rights, reflecting the Party's great emphasis on intellectual property development. In order to fully implement the

guiding principles from General Secretary Xi Jinping's major speech on intellectual property work and conscientiously put in place The Outline of National Intellectual Property Strategy (2021–2035) and The National Plan for Intellectual Property Protection and Utilization during the 14th Five-Year Plan (FYP) Period, NCAC strengthened the top-level design of copyright work and released The Copyright Work Plan for the 14th FYP Period on December 24, 2021, which sets out the guiding thought, basic principles, development goals and key tasks for copyright work during the 14th FYP period. This has provided important copyright support for comprehensively implementing the Party Central Committee's major plans on intellectual property work, and building China into a country strong in innovation, culture and intellectual property.

5. Copyright Enforcement and Supervision Focused on New Business Models and New Sectors

In 2021, copyright law enforcement and supervision authorities actively responded to copyright challenges in new business models and new sectors, and explored new methods and paths for copyright protection. NCAC Copyright Department, in cooperation with relevant authorities, launched a focused campaign to combat theatrical movies piracy and dissemination and strengthened social governance mechanism for the copyright protection of theatrical movies. NCAC and other authorities launched the “Jianwang 2021” Campaign, which prioritized copyright protection in short video, live webcast and sports events, and included Tokyo Olympic Games programs in the 2021 pre-warning list of copyright protection for key works. The 2021 National Conference on Copyright Protection and Development in Digital Environment focused on the latest issues of copyright protection and development, showcased the achievements of copyright protection and promoted the development of copyright industries.

6. Copyright Market Order of Digital Music Industry Maintained

In July 2021, the State Administration for Market Regulation issued an administrative penalty decision against Tencent Holdings Ltd., ordering Tencent and its affiliated companies to restore market competition by terminating exclusive license of music copyright within 30 days, discontinuing the payment of copyright fees such as high prepayments, and not demanding of upstream copyright holders conditions that give competitive advantage without reasonable grounds. The decision would help reshape the competition order by providing all players with opportunities to compete fairly in relevant market. NCAC had been promoting the healthy and orderly development of digital music industry by guiding all parties to improve the copyright licensing model, build good market ecology, effectively resolve copyright disputes through negotiation and mediation, and refocus their copyright operation on encouraging originality and improving user experience.

7. Copyright Market Order of Karaoke Industry Regulated

The Notice on Regulating Copyright Market Order of Karaoke Industry was released by NCAC together with the Ministry of Culture and Tourism on April 2, 2021. The notice provides for eight measures to regulate collective management in karaoke industry, such as clearing copyright through collective management, and implementing a two-in-one copyright licensing mechanism. The notice, as an important step to further supervise and improve copyright collective management, is of great significance for protecting the legitimate rights and interests of right holders, and facilitating the legitimate use of copyrighted contents and the healthy development of the industry.

8. The 8th China International Copyright Expo Held in Hangzhou

The 8th China International Copyright Expo was successfully held in Hangzhou, Zhejiang Province in October 2021, with over ten side events including the presentation of WIPO-NCAC

Copyright Awards. The Expo fully remonstrated the achievements of China's copyright endeavors and served as an important platform for copyrighted works exhibition, copyright exchange and trade. During the Expo, the Exhibition Marking the 30th Anniversary of the Implementation of the Copyright Law was organized by NCAC to celebrate the centenary of the founding of the Communist Party of China. The exhibition comprehensively reviewed the significant achievements in copyright legislation, protection, industry development and international exchange and cooperation in the past 30 years under the leadership of the Party.

9. Wujiang Model of Copyright Protection Promoted Worldwide

On October 16, 2021, the plaque awarding ceremony of WIPO Case Study of Best Practice in Copyright Protection for Wujiang Silk Industry & the book release ceremony of Copyright as an Enabler for the Growth of Silk Industry: A Study of Copyright Protection and High-quality Development of Silk Industry took place in Hangzhou, marking a successful conclusion of the case study. After "Nantong Model" and "Dehua Model", the "Wujiang Model" of enabling the growth the silk and textile industry through copyright protection is another example of increasing China's international influence of copyright administration and contributing China's share to improving global copyright governance. WIPO values this case study a lot and promotes the study results worldwide through its channels.

10. Verdict Announced for Copyright Infringement Case of Renren Yingshi Subtitle Group

The first instance verdict was announced for the case of Liang Yongping's alleged copyright infringement during the public hearing by the Shanghai No. 3 Intermediate People's Court on November 22, 2021. According to the verdict, the defendant Liang Yongping was convicted of copyright infringement and sentenced to three years and six months in prison and a fine of 1.5 million yuan, with the illegal proceeds recovered and the impounded property that had been used for the crime confiscated. The verdict that holds Renren Yingshi Subtitle Group criminally liable clarified the nature of subtitle groups' translation of film and TV works, and demonstrated China's determination to combat copyright infringement and piracy and strengthen copyright protection.

<http://english.ipraction.gov.cn/article/ns/202204/374785.html>