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China Introduces Protection Periods for Clinical Trial Data

China has granted a six-year protection period for clinical trial data on innovative drugs, the National Medical Products Administration (NMPA) said.

The six-year protection applies to innovative drugs and originator drugs, calculated from the date of drug registration. Improved new drugs receive four years of data protection, and first generic drugs receive three years, according to a guideline issued by the administration. Ordinary generic drugs and biosimilars are not granted data protection.

During the protection period, the administration will neither accept nor approve any marketing application filed by other applicants that relies on the protected data without the holder's consent.

Clinical trial data – typically requiring huge investment and more than a decade of research – have not been covered under the patent regime. The new rules are designed to prevent "free-riding" applications and reward genuine innovation.

The administration said the newly implemented trial data protection system, working in tandem with the patent protection system, will provide "dual protection" for new drug research and development in China, enabling enterprises that have invested heavily in original data on safety, efficacy and quality control to receive returns and fostering a virtuous cycle in the country's innovative drug ecosystem.

https://chinaipr.mofcom.gov.cn/article/topnews/202605/1996295.html

INTA Commends China's Advanced IP Ecosystem

China's rapid rise in innovation-driven industries is being matched by steady progress in intellectual property protection, as improved legal frameworks and growing international engagement inject new momentum into the country's IP ecosystem, said Etienne Sanz de Acedo, chief executive officer of the International Trademark Association.

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"China is now a powerhouse in patent and trademark activity, with a very significant percentage of trademark filings," Sanz de Acedo told China Daily, adding that the country accounts for almost 50 percent of global filings in patents — 1.8 million out of 3.7 million total patents in 2024.

However, the country's trademark evolution is no longer defined solely by scale, but increasingly by quality and institutional development, the INTA CEO said.

"What has really changed is the mindset. It is the understanding of the economic value of intellectual property," he said, adding that China's IP system has also improved through stronger legal frameworks where there lies greater consistency, more clarity and predictability, and more specialized courts.

Sanz de Acedo added that China's continued rise in global IP activity reflects a wider trend in which innovation-driven economies are placing greater emphasis on intellectual property as a foundation for long-term growth.

"The fact that China is a big player (in the global IP ecosystem) is something we think is very positive," he said.

His remarks came as INTA has been deepening its engagement with the Chinese market, including its participation in this year's China International Fair for Trade in Services (CIFTIS) in Beijing in September, where global IP governance and trademark protection are expected to be key discussion topics among international institutions and Chinese enterprises.

As Chinese companies move from exporting products to building global brands, IP is becoming less a narrow legal matter and more a core part of business governance, Sanz de Acedo noted.

"Although Chinese companies were essentially exporting products in the past, today they are building global brands, exporting their technology and know-how to make better lives for societies and populations around the world."

Sanz de Acedo also noted that the main challenges for Chinese companies going global include protecting rights upfront, enforcing those rights in global markets and preparing for possible litigation. Companies should also understand potential geopolitical challenges affecting many corporations.

"This means IP can no longer be treated only as a protection tool after a product or brand has already entered the market. It is rather a governance issue that needs to be embedded in the business chain and be considered from the very beginning," he said.

For startups and smaller companies, the challenge is similar to that faced by large businesses — they need to think early about their brands, technologies, protection strategies, commercialization paths and revenue models.

"That is what intellectual property is about," he said. "Building your IP, protecting your IP and commercializing your IP."

The senior executive also noted that "as we now enter the era of artificial intelligence, the technology is adding another layer of complexity to the IP world".

"Discussions around inventorship, authorship and ownership will become more pressing as AI is used to create patents, paintings and music.

"Should companies take advantage of AI? Yes, absolutely, but not exclusively," Sanz de Acedo said. "The human element is still very important."

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https://chinaipr.mofcom.gov.cn/article/centralgovernment/202606/1996579.html

China Calls for Stronger Online Copyright Protection in Emerging Fields

A conference on challenges and solutions in emerging areas of online copyright protection was held on Friday in Shenzhen, Guangdong province, calling for further improvements to the copyright legal framework and stronger application of artificial intelligence in the copyright sector.

The 10th China Internet Copyright Protection and Development Conference, jointly organized by the Copyright Administration of the Publicity Department of the Communist Party of China Central Committee, the Guangdong provincial copyright bureau and the Shenzhen municipal government, attracted more than 600 representatives from government agencies, research institutions, associations and enterprises.

The conference focused on "enhancing the copyright protection system in emerging fields and fostering drivers of new quality productive forces."

According to the conference, during the 15th Five-Year Plan period (2026-30), China will advance development of a copyright strategy and accelerate revisions to administrative regulations supporting the Copyright Law, particularly to provide institutional support for emerging sectors.

During the period, the country will strengthen innovative applications of cutting-edge technologies such as AI in the copyright field, while further improving social and financial services related to copyright.

The conference also called for stronger copyright supervision in key sectors and the use of technology to establish a long-term governance mechanism for copyright protection, with greater efforts devoted to training online copyright professionals.

It also emphasized expanding international cooperation in online copyright protection, calling for deeper participation in global copyright governance and stronger multilateral and bilateral exchanges to build a more efficient international cooperation mechanism.

At Friday's conference, organizers unveiled key tasks for the "Sword Net 2026" anti-piracy campaign, along with 10 major copyright infringement and piracy cases handled in 2025 and landmark infringement cases in the book and film sectors.

The event also featured sub-forums on topics including AI copyright rules, AI industry development, micro and short dramas, digital music, publishing, sports events, film and television, software legalization, and gaming, animation and cultural creativity.

https://chinaipr.mofcom.gov.cn/article/centralgovernment/202605/1996314.html

Campaign Launched to Combat Online Copyright Infringement and Piracy

China has launched a nationwide campaign to crack down on online copyright infringement and piracy, with a focus on films and TV dramas, cultural and creative products, books and artificial intelligence-related copyright violations.

The campaign, named "Sword Net 2026", places AI-related copyright governance among its priorities. Authorities will promote copyright compliance in training materials for large AI models and investigate illegal copying, adaptation and dissemination of works using AI and other new

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technologies. They will also target unauthorized "remixing", plagiarism-like rewriting, deepfakes and attempts to evade monitoring.

The campaign was launched by the National Copyright Administration (NCAC), the Ministry of Industry and Information Technology (MIIT), the Ministry of Public Security (MPS) and the Cyberspace Administration (CAC) of China. It marks the 22nd time the four departments have carried out targeted action on key works and major online platforms.

Running from June to November, the campaign will address online piracy problems that have drawn strong public concern covering the areas including films and TV dramas, cultural and creative products, books and AI-related copyright violations, further regulate online copyright distribution and support the development of new quality productive forces, the authorities said.

In the film and TV sector, the campaign will target online platforms such as cloud storage services, browsers and search engines that provide or facilitate access to pirated video resources. It will also crack down on unauthorized uploading, cutting, editing, adaptation and online distribution of films and TV works, as well as piracy involving livestreaming, traffic diversion and smart streaming terminals such as TV set-top boxes.

For cultural and creative products, authorities will focus on plagiarism, copycat products, false copyright registration, imitation of well-known intellectual property, fake IP collaborations and forged authorization, especially when infringing products are sold through livestreaming, e-commerce, tourist sites and areas around schools. The campaign also aims to address unclear authorization chains and rights management.

Book piracy is another priority of the campaign. Authorities will target piracy involving bestsellers, long-selling books, children's books, textbooks and teaching materials, as well as the sale of pirated books, e-book resources and cloud storage account information containing e-books through e-commerce, livestreaming and short-video platforms. Key targets include on-demand pirated printing, mixed sales of genuine and pirated books, malicious channel disruption, and online traffic diversion for pirated books and e-book resources.

An official with the NCAC said the campaign aims to improve copyright order in key sectors, support innovation in the cultural industry, promote reading, improve copyright protection in emerging fields and further stimulate creativity across society.

The campaign will focus on case investigation and enforcement. Rights holders and internet users are encouraged to report clues involving copyright infringement and piracy.

The four departments will guide relevant companies to improve internal copyright management systems and operate in compliance with the law. Those who make piracy a business or seriously disrupt the online copyright order will be punished severely, the official said.

https://chinaipr.mofcom.gov.cn/article/centralgovernment/202606/1996383.html

Chinese E-commerce Platform in New AI Regulation Move

Chinese e-commerce platform Pinduoduo has stepped up efforts to regulate artificial intelligence-related content and services on its platform, as authorities move to strengthen oversight of the rapidly developing AI sector.

The company said on Thursday that it will strictly prohibit sellers from publishing or selling a range of AI-related illegal products and services, including AI-assisted exam prediction services,

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AI data poisoning tools, AI-managed online accounts, as well as the resale of AI-generated virtual accounts.

It is the second time this month that Pinduoduo has tightened governance over AI-related content.

In mid-May, the platform announced a special campaign targeting the removal of AI-generated content labels, pledging to crack down on tutorials teaching users how to remove AI identifiers and services providing unauthorized "de-labeling" tools.

The moves are in line with measures for the identification of AI-generated content and related mandatory standards released by central authorities in March last year. The measures are part of an effort to regulate AI services and applications and promote the healthy and orderly development of the industry.

Pinduoduo has stated that, in a bid to foster a more standardized and trustworthy consumption environment, it has introduced more than 40 comprehensive governance measures since late January this year, covering product access, qualification reviews, advertising governance and intellectual property protection.

https://chinaipr.mofcom.gov.cn/article/centralgovernment/202606/1996390.html

Data, Algorithms Added to Trade Secret Regulations

China brought into force on Monday new trade secret regulations that explicitly extend legal protection to data and algorithms for the first time, as the country moves to strengthen safeguards for digital assets amid intensifying competition in artificial intelligence and advanced technologies.

The new rules, issued by the State Administration for Market Regulation (SAMR), the country's top market regulator, marked one of China's most significant updates to its trade secret regime in years, reflecting the country's effort to adapt intellectual property protections to an economy increasingly driven by data, AI models and digital innovation.

Under the new regulations, technical information eligible for protection now explicitly includes data, algorithms, computer programs and code, alongside more traditional categories such as formulas, manufacturing processes, materials and technical methods.

The move comes as Chinese companies invest heavily in artificial intelligence, cloud computing and digital infrastructure, sectors where competitive advantages increasingly depend on proprietary algorithms and data resources rather than physical assets alone.

Wang Peng, a researcher at the Beijing Academy of Social Sciences, said: "For the first time, digital elements such as data, algorithms, computer programs and code have been formally incorporated into China's trade secret protection framework.

"This provides a clearer institutional basis for protecting core technologies and digital assets in the digital era."

The update represents a notable shift from the traditional focus of trade secret protection, which historically centered on industrial know-how such as manufacturing techniques, engineering drawings and product formulas.

As the digital economy becomes a major engine of growth, however, companies are increasingly deriving their competitive edge from accumulated data resources, optimized algorithms and digital operating capabilities.

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Thus, the new regulations make it clear that not all data and algorithms automatically qualify as trade secrets.

To receive legal protection, the information must meet three conditions: it must not be publicly known, it must have commercial value and the owner must have adopted reasonable confidentiality measures.

The rules define "not publicly known" as information that is generally unknown and not readily obtainable by relevant industry participants at the time an alleged infringement occurs.

The regulations arrive as competition in generative AI accelerates globally. Chinese firms including DeepSeek and Alibaba have stepped up efforts to improve model performance and efficiency, while policymakers increasingly emphasize technological self-reliance and innovation.

Unlike patents, which require public disclosure and may not fully protect iterative model development, trade secret protection allows companies to safeguard proprietary model architectures, training methods, optimization techniques, and other commercially valuable innovations.

For artificial intelligence developers, internet platforms, fintech companies and advanced manufacturers, algorithms often embody years of investment in talent, computing power and research.

"The new framework is also expected to provide companies with stronger legal tools to protect core intellectual assets while encouraging continued investment in research and development," Wang said.

"By formally recognizing data and algorithms as potential trade secrets, China is signaling that in the AI era, digital assets may deserve the same level of protection once reserved primarily for factories, patents and industrial know-how," he added.

https://chinaipr.mofcom.gov.cn/article/centralgovernment/202606/1996382.html

CNIPA and Rospatent Sign a Memorandum of Understanding on Cooperation in the Field of Intellectual Property

On May 20, witnessed by Chinese President Xi Jinping and Russian President Vladimir Putin, the Memorandum of Understanding between the China National Intellectual Property Administration (CNIPA) and the Federal Service for Intellectual Property (Rospatent) was signed at the Great Hall of the People in Beijing. Shen Changyu, Commissioner of CNIPA, and Yury Zubov, Head of Rospatent, signed the memorandum of understanding on behalf of their respective offices.

According to the memorandum of understanding, China and Russia will further deepen cooperation in the field of intellectual property and promote shared development.

https://english.cnipa.gov.cn/art/2026/6/2/art_1340_206610.html

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SUPPLEMENTARY ISSUE

Supreme Court Ruling on Method Patent Infringement: The Assembly and Testing Location as a Valid Basis for Jurisdiction

In an infringement case, the Supreme People's Court (SPC) established: For a method patent directed to the use of a device, an accused infringer who assembles and tests that device is highly likely to have practiced the patented method during those activities. If this likelihood is sufficiently plausible to be arguable at the jurisdictional objection stage, then the assembly and testing location can properly serve as the basis for jurisdiction in an infringement action.

This article discusses a dispute over infringement of a method patent. The facts are briefly summarized as follows.

Company A is the patentee of an invention patent titled "Polishing Pad Dressing Method." Company A filed a lawsuit with the first instance court, alleging that the patented method had been embedded into a relevant polishing machines, and that Company B, without authorization, had manufactured, used, offered for sale, and sold those polishing machines, thereby infringing Company A's patent and causing significant economic damage.

During the period for filing a statement of defense, Company B raised a jurisdictional objection, arguing that the place of infringement was Beijing, not Tianjin. Company B claimed that the polishing machines were manufactured in Beijing but, due to their excessive size and weight, were disassembled into three major modules, shipped separately, and then reassembled on site at the customer's facility, Tianjin Company C. Because Company A did not name the user, Company C in Tianjin, as a defendant, Company B argued that the first instance court lacked jurisdiction and requested that the case be transferred to the Beijing Intellectual Property Court for hearing.

The first instance court issued a civil ruling that accepted Company B's jurisdictional objection and ordered the case transferred to the Beijing Intellectual Property Court. The court explained its reasoning as follows. Under patent law, the act of manufacturing means producing a product that contains every technical features listed in the patent claim. In this case, Company B admitted that after shipping the product to Company C in Tianjin, it did carry out installation and testing. However, Company B also argued that the complete machine had already been fully produced and tested at its processing facility in Beijing. The machine was only disassembled into modules for transport because of its large size and heavy weight. The evidence submitted by Company A only showed that the accused product has been sold to Company C in Tianjin. It did not show what happened during the manufacturing process. As for the installation and testing activities in Tianjin, Company B offered a reasonable explanation for why they were necessary. Based on the evidence available, the court could not prove that those installation and testing steps were actually part of the manufacturing process, meaning the process of creating a product that has all the claimed technical features. Therefore, the court found no basis to conclude that the alleged manufacturing had taken place in Tianjin.

Company A appealed. The SPC issued a civil ruling revoking the issued decision and holding that the first instance court had jurisdiction.

The effective ruling stated: For a method patent directed to the use of a device, an accused infringer who assembles and tests that device is highly likely to have practiced the patented method during those activities. If this likelihood is sufficiently plausible to be arguable at the

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jurisdictional objection stage (which is a very early stage of litigation proceedings where the court has not yet examined the substance of the case), then the assembly and testing location can properly serve as the basis for jurisdiction in an infringement action.

In this case, Company B's own prospectus stated that the polishing machines "must be installed and tested on the customer's production line." Company B also admitted that "because the polishing machines are too large and heavy, they were disassembled into three major modules and shipped to Company C in Tianjin for assembly." This shows that Company B shipped the disassembled machines to Tianjin Company C for assembly, and the machine only became a complete finished product after assembly.

The court found that Company B's assembly and testing activities were closely linked to its prior manufacturing efforts and is in fact a continuation of the manufacturing process. Accordingly, the final assembly location in Tianjin could be treated as the place of manufacturing.

Because there was a high probability that Company B used the patented method while assembling and testing the machines in Tianjin, this fact alone was enough to make the claim worth debating at the jurisdictional objection stage (i.e. the very early stage of litigation proceedings). The place where the machine was assembled and tested is the place that legally ties this case to a specific jurisdiction. Therefore, the first instance court, as the court where the alleged infringing acts took place, has jurisdiction over this case.

The SPC further clarified: As long as there is a high probability that the accused infringer carried out the patented method during the assembly and testing of the equipment, and as long as that probability meets the arguable threshold required at the jurisdictional objection stage, the assembly and testing location can become a lawful basis for jurisdiction.

This rule is especially important for industries like semiconductors and high end equipment manufacturing. These industries rely on large precision machines that must be finally assembled and tested at the customer’s site. Under this rule, infringers can no longer avoid jurisdiction by using technical tricks such as splitting a machine into parts, transporting those parts separately, and then assembling them remotely. At the same time, the rule opens a convenient door for method patent holders to bring lawsuits at the procedural level. It offers profound insights for intellectual property practitioners.

(2024) Zui Gao Fa Zhi Min Xia Zhong No. 136

Assessing Obvious Difference of a Design Patent against Combined Prior Art Designs

The SPC concluded an appeal in an administrative dispute concerning the invalidation against a design patent. With respect to the specific question of how to determine whether a design patent has an obvious difference when compared to a combination of prior art design features, the Court made clear that arbitrarily extracted points, lines, or surfaces are generally not considered prior art design features eligible for combination. If the corresponding parts of the designs already show significant differences, then it serves no practical purpose to assess whether a teaching for combination exists. Furthermore, if the particular manner of combination exceeds the knowledge level of ordinary consumers and their understanding of the relevant product, it should generally be considered that there is no teaching for combination.

The case involved a design patent (see attached drawing at the end of the article). The patentee was Company A. In response to invalidation requests filed separately by Company B and Company C, the CNIPA issued a decision finding that using the four heart-shaped holes from

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prior art reference 2 and the dovetail groove from reference 1 to replace the corresponding design features in reference 3 clearly provided a teaching for the combing the means. The CNIPA further found that the patent in suit did not have an obvious difference compared to the combined design, and therefore declared the patent entirely invalid.

Company A filed a lawsuit with the first instance court, arguing that the dovetail groove in reference 1 and the four heart-shaped holes in reference 2 could not be considered design features eligible for combination with other prior art designs or design features, and that the differences identified by the CNIPA were not minor local differences but rather obvious distinctions.

The first instance court affirmed the CNIPA's reasoning and dismissed Company A's claims. The court held that the patent and the design after combination were substantially consistent in terms of connection structure, overall shape, through-hole configuration, and other aspects. The overall shape, as well as the shape, relative position, and relative proportion of each main part, were highly similar, resulting in a highly similar visual effect. The differences were either minor local variations or conventional design choices. Based on the principle of overall observation and comprehensive assessment, the similarities between the patent and the combined prior design had a more significant impact on the overall visual effect.

Company A, dissatisfied with the decision, filed an appeal.

The SPC, on second instance, annulled the previous ruling and maintained the validity of the patent.

The Court held that arbitrarily extracted points, lines, or surfaces are generally not considered prior art design features eligible for combination. If the corresponding parts of the designs already show significant differences, then it serves no practical purpose to assess whether a teaching for combination exists. If the particular manner of combination exceeds the knowledge level of ordinary consumers and their understanding of the relevant product, it should generally be considered that there is no teaching for combination.

Applying these principles to the case, the Court made the following findings. First, with respect to the identification of prior art design features, the part that the CNIPA identified as the “dovetail groove” was merely one component of a connecting structure in reference 1 and was therefore an arbitrarily selected and isolated portion of the reference, rather than a physically or visually naturally distinguishable design. Given that the patent in suit was not a partial design, this portion could not be treated as a design feature eligible for combination. In terms of design features, there are significant differences between the patent in suit and reference 3; in terms of visual appearance, the patent in suit and reference 2 also convey different impressions. Based on these numerous differences, regardless of whether a combination suggestion exists between references 2 and 3, the patent in suit already has an obvious difference when compared to the combination of references 2 and 3.

Finally, as to whether there is a teaching for combination, the design styles of references 2 and 3 were not harmonious. Replacing the through hole in reference 3 with the heart shaped holes from reference 2 would have been difficult, and ordinary consumers could not have simply combined the two references to arrive at a design substantially similar to the patent in suit. Based on these considerations, the Court concluded that the design patent should be maintained.

This case clarifies the standard for extracting design features that are "naturally distinguishable" in the combination assessment of design patents, establishes a progressive logic of "comparing differences first, then examining the teaching for combination," and limits the scope of teaching

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for combination by reference to the cognitive ability of ordinary consumers. This approach provides important guidance for preventing the improper fragmentation and arbitrary aggregation of prior designs, thereby preserving space for genuine design innovation.

(2024) Zui Gao Fa Zhi Xing Zhong No. 1005

Criteria for Determining Employee Inventions by Senior Corporate Executives

The SPC issued a final judgment in a series of disputes over patent ownership, upholding the first instance decision. The SPC made it clear that, where a senior corporate executive obtains a patent for themselves or for others in breach of their duties of loyalty and non-competition obligations, such patent lacks a legal basis. The SPC also confirmed that a total of eleven patents and patent applications, including the patent in question, constituted employee inventions.

Individual X served as the general manager of Company A, with leadership and management authority over major matters such as the company's operational direction, human resources, and organizational structure. The employment contract between X and Company A included confidentiality and non-competition clauses. In addition, X was the legal representative of Company B and the de facto controller of Company C.

In April 2020, Company B filed the disputed patent application with the CNIPA, listing Y, son of X, as the inventor. In May 2021, Company B assigned the patent to Company C without compensation. Company A filed a lawsuit, claiming that the disputed patent was an employee invention of X and should belong to Company A.

The court of first instance found that before the filing date of the disputed patent, Company A had already completed preliminary research and development of a related product, and that product was close to the technical solution of the disputed patent. X was aware of, participated in, and guided the relevant technical improvement work at Company A before the filing date. In the absence of evidence proving that Y had actually developed the patent, the court determined that X was the true inventor of the disputed patent. The court held that the disputed patent was an employee invention and that the patent should belong to Company A. The court also found that Companies B and C had acted in bad faith by assigning the patent without compensation, and declared the assignment invalid. Companies B and C, as well as X and Y, appealed the first instance decision.

In the second instance, the SPC held that the acquisition of the disputed patent by Companies B and C lacked a legal basis and that the patent should be considered an employee invention of X and therefore belong to Company A. The SPC dismissed the appeal and upheld the original judgment. The main reasons were as follows.

First, during his tenure as general manager of Company A, X seriously violated his duties of loyalty and his non-competition obligations. Therefore, the patents acquired for Companies B and C through such unlawful conduct lacked a legal foundation. As a senior executive of Company A, X owed statutory duties of loyalty and diligence to the company. In addition, the employment contract contained confidentiality and non-competition clauses, which X was required to strictly observe. Instead, X used the resources at his disposal during his employment at Company A to support the development of his personally affiliated companies and attempted to take business opportunities that originally belonged or could have belonged to Company A, thereby encroaching on Company A's market share. Moreover, X used Company A's resources to develop patents for his personal benefit and claimed the patents for himself.

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Second, the disputed patent qualified as an employee invention of X and should belong to Company A. X had a relevant technical background and held significant operational management authority during his employment at Company A, which allowed him to access the company's technical information and participate in technical improvement work. The product covered by the disputed patent belonged to the same product category as Company A's existing products. Before the filing date of the disputed patent, Company A had already carried out technical improvement work on the relevant technical solution. Product design drawings found in multiple email exchanges between X and Company A's employees were identical to some of the drawings in the specification of the disputed patent. Furthermore, the named inventor, Y, is X's son, and the two have an interest in each other. Y failed to provide any evidence of research and development work related to the disputed patent. At the same time, X had de facto control over Company B. Listing Y as the inventor and filing the patent application in the name of Company B was clearly a means to circumvent legal provisions and the terms of the employment contract.

Third, the assignment of the disputed patent from Company B to Company C was made without compensation and was carried out with the malicious intent to harm the legitimate interests of Company A. The first instance court's finding that the assignment was invalid had a factual and legal basis.

This second instance judgment further clarifies the criteria for determining employee inventions by senior corporate executives. Where a senior executive, during their term of office, operates a business of the same type as that of their employer for themselves or for others, and files a patent application either during their employment or within one year after leaving, naming themselves or a related person as the inventor and their own company or an affiliated company as the applicant, for a patent highly relevant to the business of their employer, such patent or patent application may be deemed an employee invention.

This decision provides a clear framework for determining the ownership of inventions made by senior corporate executives. It protects the innovative achievements of the original employer from being improperly taken, while also safeguarding the legitimate right of senior executives to be named as inventors. The ruling equally protects the lawful rights and interests of all parties involved. Moreover, through this fair adjudication, the judgment establishes clear rules of conduct and provides a useful reference for similar cases. It also sends a strong signal to market participants about the importance of good faith and lawful operation. The decision plays a positive role in promoting sound corporate governance and maintaining fair market competition, and serves as a vivid example of judicial practice that actively contributes to fostering a business environment governed by the rule of law.

(2023) Zui Gao Fa Zhi Min Zhong No. 2444

Assessing Substantial Differences in Repeated Patent Invalidation Challenges: Prior Decisions Deserve Careful Consideration

The SPC concluded an appeal in an administrative dispute concerning the invalidation against an invention patent. The Court overturned both the first instance decision and the CNIPA's ruling. The case makes clear that when assessing inventiveness, courts and the CNIPA should avoid directly or simply assuming that a patented technical solution is obvious merely because it operates on the same principle. Inventiveness should not be easily dismissed with phrases such as "would have been easily thought of" or "would have been readily available." Furthermore, when the same patent faces repeated invalidation challenges, the CNIPA must carefully evaluate the relevant findings of prior decisions, and the Court provided a clear standard for doing so.

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Company A was the patentee of the invention patent in suit. Two other companies, Company B and Company C, separately filed requests to invalidate the patent. The CNIPA consolidated the requests for examination and issued a decision declaring the patent entirely invalid on the ground that all the claims of the patent lacked of inventiveness. Company A filed a lawsuit challenging the decision, but the first instance court dismissed its claims. Company A then appealed to the SPC.

During the second instance, it was found that the CNIPA had previously issued nine other invalidation decisions in response to ten separate invalidation requests, all of which had maintained the validity of the patent.

The SPC held that when assessing inventiveness, courts and the CNIPA should avoid simply assuming that a patented solution is obvious merely because it is based on the same principle (as prior art). Instead, the focus must be on examining and comparing the differences and connections between the patent in suit and the closest prior art in terms of the technical problem to be solved, the technical means adopted, and the technical effects achieved. Even where the underlying principle is the same, if the patent addresses a different technical problem, adopts different specific technical means, and achieves different technical effects, then without evidence or a clear explanation showing that the distinguishing features were common general knowledge or conventional means in the art, and where such features are not disclosed in the prior art for solving the relevant technical problem, the inventiveness of the patent should not be dismissed with phrases such as "would have been easily thought of" or "would have been readily available."

Claim 1 of the patent in suit adopted a structure consisting of a ring shaped permanent magnet at the base and a single permanent magnet as the levitating body above. By setting the upper surface of the ring magnet with a magnetic pole opposite to that of the lower end of the levitating magnet, the design used the magnetic force generated in a specific area outside the center of the ring magnet to keep the levitating magnet suspended at a predetermined position above the base. This achieved both vertical gravity balance and tilt resistance. A horizontal control device was then added to allow the levitating magnet to remain stable at its reference position while also being able to rotate freely. In contrast, the prior art reference relied on by the CNIPA adopted a structure consisting of a ring magnet above and a levitating body below, along with an additional electromagnet. That reference disclosed that a ring magnet can produce both attractive and repulsive magnetic forces. However, its overall technical solution used the magnetic attraction of the ring magnet combined with an electromagnet to achieve a controlled and adjustable dynamic magnetic attraction based levitation. The repulsive force generated in the specific area outside the center of the ring magnet served mainly as a cushion to prevent the levitating body from colliding, rather than to balance gravity. Moreover, that technical solution did not require control of horizontal movement. The differences between the patent in suit and the prior art reference were not merely simple adjustments of relative positions. The two solutions differed in the way levitation was achieved, the specific technical means employed, and the technical effects obtained.

Based on these distinguishing technical features, the actual technical problem that claim 1 of the patent in suit solved was to provide an alternative technical solution that would allow a levitating body to achieve static vertical balance and tilt resistance while also being able to rotate freely in the horizontal plane. Another prior art reference only disclosed the distribution of magnetic field lines of a ring magnet but did not disclose any specific application. A third reference disclosed a horizontal servo system used in a different type of magnetic repulsion levitation system to correct horizontal drift. None of these prior art references provided a teaching that would lead a person skilled in the art to eliminate vertical electromagnetic control, use the repulsive magnetic force in a specific area outside the center of a ring magnet to balance gravity, and add a horizontal control

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device to manage horizontal movement, all while achieving both vertical balance and tilt resistance with free horizontal rotation.

In its second instance decision, the SPC specifically noted that when the same patent faces repeated invalidation challenges, the CNIPA must carefully evaluate the relevant findings of prior decisions. Each invalidation proceeding is an independent legal process. The evidence and grounds presented in a later proceeding must be different from those presented in prior proceedings and not merely substantially the same. Each case must be decided on its own evidence and grounds, and prior decisions have no binding effect in later proceedings. This follows from the principles of procedural fairness and case by case review. However, prior decisions, as legally effective administrative documents, do carry some legal significance in later proceedings.

First, Article 6 of the SPC's Judicial Interpretation (II) of Several Issues Concerning the Application of Law in the Adjudication of Patent Infringement Disputes expressly provides that patent examination files may be used as a basis for interpreting claims. The claim interpretations and patentee statements recorded in prior decisions are part of the examination file. Second, for matters where the CNIPA has discretion in invalidation proceedings, such as determining the knowledge level of a person skilled in the art or whether a technical teaching exists, the findings in prior decisions, while not absolutely binding, do reflect the applicable examination standards and give rise to reasonable expectations on the part of patentees and the public. When a later proceeding faces the same or similar technical issues and legal disputes, if the CNIPA reaches a finding that differs substantially from a prior decision, it must do so with greater care and fully assess the legitimacy and necessity of departing from the established standard. This ensures that the resulting decision is lawful, reasonable, and predictable.

With respect to the patent in suit, the SPC noted that several prior decisions had already considered prior art references disclosing the basic principles of the special magnetic field distribution of ring magnets and the use of magnetic repulsion or attraction to balance gravity for levitation. However, in each of those prior cases, the CNIPA ultimately found the patent to be inventive because of differences in the inventive concept or the specific technical solutions. Given this history, and in the absence of any evidence of common general knowledge or a sufficient explanation, the CNIPA's conclusion in the challenged decision that the distinguishing features central to the patent's inventive concept were "easily thought of" or "readily available" was not persuasive, especially when that conclusion was inconsistent with prior examination standards. Accordingly, the SPC held that the challenged decision and the first instance court's judgment erred in finding the patent lacking inventiveness. The Court revoked the first instance judgment and the CNIPA decision, and ordered the CNIPA to issue a new decision.

This second instance decision provides important guidance on the legal significance of prior invalidation decisions when the same patent faces repeated challenges. While affirming the principles of procedural fairness and case by case review, the decision also emphasizes the importance of maintaining public confidence in the patent system by promoting consistent and predictable examination standards. The decision provides a useful framework for resolving related disputes.

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