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China's Supreme People's Court (SPC) Emphasizes Stronger IP Protection for Seed Industry

Highlighting five landmark cases related to new plant varieties, China's top court has underscored the importance of enhancing intellectual property protection in the seed industry, committing to ensuring food safety and fostering innovation.

The SPC unveiled details of these cases on Wednesday, ahead of World Food Day, which falls annually on Oct 16. These cases involved major crop varieties such as rice, wheat, and corn, which are vital to national food security, as well as fruit and vegetable varieties like passion fruit and blueberries that enrich the supply for consumers.

The top court has urged judges nationwide to impose strict penalties on those who significantly infringe on seed rights and stifle innovation. It noted that two of the five cases involved punitive damages, and in both instances, the full amount of compensation claimed by the variety rights holders was supported. For example, a planting base in Yunnan province was ordered to pay 144,000 yuan (\$21,400) in punitive damages for unauthorized production, propagation, and sale of a blueberry variety owned by a Spanish company.

The top court stated that applying punitive damages underscores the judiciary's firm stance against infringement and reflects Chinese courts' commitment to equal protection for all litigants, both domestic and foreign. The court also emphasized the importance of building an integrated chain of judicial protection across breeding, seed production, propagation, and sales, and refining judicial rules governing intellectual property in the seed industry, considering the seasonal nature of crop growth and the diverse propagation methods of various varieties.

<https://chinaipr.mofcom.gov.cn/article/centralgovernment/202610/1998028.html>

China Releases Bilingual Legal Report Highlighting Key Developments and Reforms

A bilingual report outlining last year's legal developments in China was released on Monday, marking a significant advancement in the nation's ongoing efforts to strengthen the rule of law. This marks the 18th consecutive year such a report has been released both in China and abroad.

The Chinese-English Annual Report on the Rule of Law in China (2025), prepared under the auspices of the China Law Society, highlights major achievements across various legal domains, including legislation, administration, and justice. It places particular emphasis on the protection of intellectual property, human rights, environmental and ecological issues, and foreign affairs.

According to the report, in 2025, the National People's Congress (NPC) and its Standing Committee enacted six new laws and amended 15 existing ones. By the end of the year, China had a total of 308 effective laws in place.

The report notes a 12.8 percent year-on-year decrease in criminal cases filed by public security organs nationwide, representing the lowest level since the beginning of the century. It also highlights the resolution of 258,000 telecom and online fraud cases and the recovery of 1,773 missing or abducted women and children.

The report underscores the importance of human rights protection, emphasizing a zero-tolerance approach in case handling. In 2025, 44,000 individuals who committed offenses against children were punished, and 43,000 were brought to court for violating women's personal rights.

In the realm of intellectual property, China granted 972,000 invention patents, registered 4.21 million trademarks, and recorded 10.68 million copyright registrations. Additionally, 881 cases of patent-related violations were investigated and addressed.

In 2025, China intensified its efforts against major crimes in the environmental and resource sectors. Police investigated 37,000 criminal cases, and courts across the country resolved 24,000 criminal cases and 164,000 civil cases concerning ecological and environmental resources. Additionally, prosecutorial bodies dealt with 47,000 public interest litigation cases aimed at environmental conservation.

The report also underscores significant progress in legal education and theoretical research, highlighting China's dedication to strengthening its legal framework and driving comprehensive legal reform.

<https://chinaipr.mofcom.gov.cn/article/centralgovernment/202610/1997951.html>

Innovative Ideas to be Showcased at Patent Fair

The 15th China International Patent Fair will be held from Nov 6 to 8 in Wuxi, Jiangsu province, focusing on patents, innovation, and the commercialization of research outcomes, an official from the country's top intellectual property regulator announced on Wednesday.

Han Aipeng, head of the IP Utilization Promotion Department at the China National Intellectual Property Administration (CNIPA), said at a news conference that the opening of the fair will also feature the China patent award presentation ceremony, where the 26th China patent gold award and the design gold award will be presented.

In addition, more than 40 activities will be carried out to promote the commercialization of patents.

Zhou Wendong, deputy mayor of Wuxi, said the fair will leverage Wuxi's strengths in industrial design to host an international design conference that aims to attract exhibits from more than 200 brands and designers.

"We'll also incorporate local intangible cultural heritage elements, such as Yixing purple clay pottery and Xiju opera, showcasing the intellectual property protection and application of traditional craftsmanship," he added.

<https://chinaipr.mofcom.gov.cn/article/centralgovernment/202610/1998113.html>

SUPPLEMENTARY ISSUE

China's New AI Dispute Rules: What Businesses Need to Know

On 7 September 2026, China's SPC issued the Opinions on the Trial of Disputes Involving Artificial Intelligence in Accordance with Law (the "Opinions").

In recent years, discussions of AI-related IP rules have largely focused on the application and examination stage, for example, whether algorithms are eligible for patent protection and how examination standards should be applied. The newly issued Opinions instead address a more practical question from the perspective of judicial adjudication: when AI R&D, deployment and commercialization give rise to disputes, how should IP liability be allocated? And how should businesses prepare evidence, contracts and compliance systems?

Articles 12 to 16 of the Opinions specifically address AI-related IP disputes, covering in turn infringement involving AI-generated content, open-source software, AI-related inventions and patents, technology contracts, and the use of data. For businesses conducting AI R&D, licensing, technology cooperation or product deployment in China, these rules mean that IP management should no longer stop at "what rights have been filed", but should extend across the entire lifecycle, including the provenance of training data, model development records, management of open-source components, documentation of R&D contributions, technology contract design, and preparation of litigation evidence.

I. Infringement Liability for AI-Generated Content: A Holistic Assessment of Control, Degree of Participation and Duty of Care, among Other Factors

Article 12 of the Opinions makes clear that, where AI-generated content infringes another party's copyright, courts will comprehensively consider factors including the type of AI service, industry characteristics, the source of training data, the degree of participation of the parties, necessary measures taken, and profits obtained, and will reasonably determine the liability of developers, providers and users. This means that the mere fact that "the content was generated by AI" does not itself provide a defense. Liability will instead turn more closely on who was able to control the risk, who had a material influence on the generation of the content, and who was in a position to take preventive measures.

The Opinions also make important arrangements regarding evidence. Where an AI developer raises a non-infringement defense, the court shall order it to provide evidence concerning the sources of training data, records of the training process, the model's mode of operation and scientific grounds. For businesses, this turns "data and model traceability" from a purely technical governance issue into a potential litigation capability issue. Training-data inventories, licenses covering data sources, model-version records, filtering measures, logs and internal decision records may all directly affect evidentiary issues and the determination of liability in future disputes.

Notably, the SPC stated in its official Q&A that the Opinions do not reach conclusions on two issues that remain highly contentious: 1) whether AI-generated content itself is eligible for copyright protection; and 2) how the unauthorized use of other parties' works to train large AI models should be legally characterized. Businesses should therefore not read the Opinions as having resolved all copyright issues involving generative AI, and should continue to take a cautious approach to training-data authorization and output-related risks.

II. Open-Source AI: Liability of Relevant Parties — Potential Exemptions from Liability Depend on License Compliance, Risk Disclosure and Compliance Management

Article 13 is the first provision to address open-source software liability specifically from the perspective of AI disputes. When determining the liability of open-source software developers and providers, as well as downstream developers and providers, courts will consider the type of open-source license, specific restrictions on rights, safety and compliance measures, and the degree of information disclosure. Where a developer or provider makes certain code modules used for AI R&D available free of charge on an open-source basis and publicly explains their functions and safety risks, a court may find that the developer or provider is not liable if a third party's use of the module results in infringement.

This rule is directly relevant to companies using international open-source models, code repositories and foundational components. Open source does not mean “no liability”, nor does it mean that license conditions can be ignored. Businesses should maintain a component inventory, identify attribution, copyleft, patent-license, redistribution and disclaimer requirements under different licenses, and preserve records of versions and use cases. For parties releasing open-source components, clear disclosure of functional boundaries, known risks and applicable limitations may also become an important factor in future assessments of liability.

III. AI-Assisted Inventions: The Courts Further Confirm the Core Standard of “Substantial Human Contribution”

In the patent context, Article 14 aligns relatively clearly with the direction of China's recent patent examination policy. The Opinions state that an AI-related invention may constitute patent-eligible subject matter where it uses technical means that comply with the laws of nature, solves a technical problem and achieves a technical effect consistent with the laws of nature.

At the same time, where a natural person uses AI to complete an invention and makes a creative contribution to the substantive features of the invention, that natural person should be recognized as the inventor.

This is consistent with the general direction of current Chinese practice for AI-related patent applications: AI may serve as an R&D tool, but the inventor must still be a natural person who has made a creative contribution.

For multinational companies and R&D teams, the important issue is not simply whose name appears as inventor on the application form, but how that contribution can be demonstrated. Project initiation documents, records of prompts and parameter adjustments, experimental design, iterations of technical solutions, R&D meeting minutes and records showing how the final solution was developed may all help explain the role played by natural persons in the making of the invention.

The Opinions also reiterate the requirement for sufficient disclosure in the specification: inventions completed using AI are subject to the same sufficiency-of-disclosure requirements as inventions completed entirely by natural persons. In other words, if the patent specification for an invention completed using AI describes the technical solution to a level that enables a person skilled in the art to carry out the invention, the corresponding requirement for sufficient disclosure is satisfied. Importantly, the application documents should identify the model architecture, training methods, key parameters, input-output relationships or specific application scenarios that constitute the inventive contribution; they should not merely describe the result. “Black-box” descriptions of AI technology may not only affect grant, but may also create risks in subsequent validity and litigation proceedings.

IV. AI Technology Contracts: From “Outcome Commitments” to More Precise Provisions on the R&D Process and Reasonable Efforts

Article 15 provides that, when hearing disputes arising from AI technology development, transfer, licensing, consulting and service contracts, courts should determine liability for breach of contract in accordance with the contractual terms, while fully considering the characteristics of AI R&D and whether the technology developer has made reasonable efforts.

AI R&D is highly uncertain, and the same model and training pathway will not necessarily produce completely identical results. For parties to technology cooperation, a contract should not merely contain a broad commitment to “achieve a certain result”. Instead, it should, to the extent possible, specify who supplies the data, the training and testing conditions, evaluation metrics, deliverables, model versions, acceptance methods, iteration responsibilities, third-party components, ownership of intellectual property, and the allocation of responsibility where the expected results are not achieved.

Cross-border R&D and licensing projects should also address data transfers, confidentiality and open-source compliance. The more clearly “reasonable efforts” can be translated into verifiable R&D obligations, the more uncertainty in fact-finding can be reduced if a dispute arises.

V. Data Is Becoming a Core Asset Capable of Layered Protection

Article 16 reflects an important trend: data used in AI competition does not have to qualify as a traditional copyright subject matter before it can receive legal protection.

The Opinions make clear that courts should protect corresponding data interests where data has been lawfully obtained through collection and generation, derivative creation, assignment, licensing or other means. Data or datasets that qualify as compilation works or other copyrightable works may be protected under the Copyright Law; those that qualify as trade secrets may be protected under the Anti-Unfair Competition Law; and even where data does not constitute a trade secret, certain improper uses of data may still be regulated under the Anti-Unfair Competition Law.

Accordingly, businesses should move from asking simply “do we own copyright in the data?” to adopting a layered rights strategy. They should first confirm that the data has been lawfully obtained and that contracts clearly define ownership and permitted uses; then consider whether the selection or arrangement of a dataset is sufficiently original; and use access controls, permission management, confidentiality agreements and other measures to preserve trade-secret status. For data assets that cannot be brought within traditional exclusive-right regimes, competition law and contractual mechanisms may still provide protection.

VI. What Businesses Should Prepare in Advance: Evidence

Although the evidentiary rules appear in Part IV of the Opinions rather than in the dedicated IP section, their practical impact on AI-related IP disputes is equally important. Courts may require parties to provide full evidence concerning disputed technical facts. Where documents or electronic data are controlled by one party and that party refuses to produce them without justification, the court may make findings adverse to that party. Where AI-generated content is submitted as evidence of infringement, courts will also consider the design of prompts, the effect of prompts on the output, the degree of similarity between the generated content and the work in which rights are asserted, the consistency of repeated testing, as well as factors such as model training, algorithm design and content-filtering mechanisms.

This means that businesses should move “litigation readiness” forward into the R&D and commercialization stages. Model versions, training data, prompts, test results, source-code commit records, third-party licenses, contractual correspondence and access logs should, where possible, form a traceable, searchable and verifiable evidentiary chain. Many AI-related IP disputes may ultimately be lost not because the legal rules are unfavorable, but because critical facts cannot be proved.

Conclusion

The significance of the SPC Opinions lies in moving AI-related IP issues beyond the single question of “application and grant” and into the full lifecycle of R&D, deployment, contracts, data management and dispute resolution.

For overseas applicants and businesses conducting AI-related activities in China, China IP strategy for AI should evolve accordingly: patent filings remain important, but a patent portfolio alone is no longer sufficient to address all risks arising from AI commercialization.

A more resilient approach is to manage inventorship contributions, training-data provenance and open-source components from the R&D stage; define technical objectives, IP ownership and data boundaries in transactions; continuously assess risks relating to generated content and competition law during commercialization; and preserve technical and business records capable of withstanding judicial scrutiny throughout the process. In this way, intellectual property can be transformed from a static collection of rights into enforceable assets that support AI innovation and commercialization.

Before and After the Implementation of the New Trademark Law in 2027: Should the New or Old Law Apply to Trademark Cases?

The newly revised Trademark Law of the People's Republic of China was adopted in 2026 and will come into effect on January 1, 2027. As the effective date of the new law approaches, a highly practical question arises: if a trademark case spans across January 1, 2027 (i.e. the legal facts involved continue after the new Trademark Law takes effect), should the new Trademark Law or the old law apply?

For example, a trademark application is filed in 2026, but the decision on the review of refusal is not made until 2027; or a trademark registered years ago is subject to an invalidation request filed by a third party after 2027. For such cases, the applicable version of the law cannot be simply determined by “when the court hears the case” or “when the case is accepted.”

To address this issue, the SPC published the Provisions on Several Issues Concerning the Temporal Application of the Trademark Law of the People's Republic of China (Draft for Comments) (hereinafter referred to as the “Draft for Comments”) in September 2026. Although the Draft for Comments has not yet officially come into effect, the various “temporal anchors” it establishes for different types of trademark cases have formulated clear rules for the transition between the old and new laws, which deserve the early attention of trademark applicants, rights holders, and legal practitioners.

I. Civil Trademark Disputes: Based on the “Time of Occurrence of the Legal Facts” Giving Rise to the Disputes

Article 1 of the Draft for Comments first establishes a fundamental rule of "non-retroactivity of law" for civil trademark disputes (such as trademark infringement disputes and trademark ownership disputes, etc.), which is primarily reflected in the following three aspects:

- (1) Legal facts occurring after the implementation of the new law: the new law shall apply;
- (2) Legal facts occurring before the implementation of the new law: in principle, the Trademark Law and judicial interpretations in force at that time shall apply;
- (3) Continuous acts spanning the old and new laws: if the legal facts continue from before the implementation of the new law to after its implementation, the new Trademark Law shall apply in principle.

Practical Tips: January 1, 2027, will not automatically subject all previously occurred trademark acts to the new law, but special attention must be paid to continuous acts that span the implementation dates of the old and new laws. For enterprises, if any act of trademark use, alleged infringement, or other disputed act is likely to continue across January 1, 2027, it is recommended to re-evaluate the compliance and legal risks of such acts under the framework of the new law prior to its implementation.

II. Administrative Cases Concerning Trademark Authorization and Confirmation: Different "Temporal Anchors" for Four Types of Procedures

Administrative cases concerning trademark authorization and confirmation involve complex procedures, and the rules for the application of law corresponding to different stages vary significantly. Articles 2 to 4 of the Draft for Comments set different "temporal anchors" for four core procedures.

- (1) Review on Refusal and Review on Disapproving Registration: When determining the applicable law, the decisive factor is when the Review Decision is made

Administrative lawsuits brought by a party dissatisfied with Decision on Review of Refusal of a trademark or Decision on Review of Disapproving of a trademark shall be governed by the Trademark Law in force at the time the review decision is made.

Practical Tips: This rule is particularly noteworthy for trademarks that are currently still pending in the examination, opposition, or review procedures. The specific date on which the review decision is made directly determines the applicable substantive law. If a review decision is made after January 1, 2027, the subsequent administrative litigation will be governed by the new law.

- (2) Invalidity Cases: The Focus is on When the Trademark Was Approved for Registration, Rather Than When the Invalidity Decision Was Made

Administrative lawsuits brought by a party dissatisfied with a Decision on Review of Invalidity Declaration or Ruling on Invalidity Request shall be governed by the Trademark Law in force at the time the decision to approve the registration was made.

The Draft for Comments further clarifies three specific scenarios for "the time when the decision to approve the registration is made." Depending on the procedures the trademark has undergone, this time point may be:

- (i) the time when the preliminary approval is announced (applicable where the trademark application is approved for registration upon the expiration of the preliminary approval announcement period without undergoing the review of refusal procedure);

(ii) the time when the decision on the review of refusal is made (applicable where the trademark application is approved for registration upon the expiration of the preliminary approval announcement period after undergoing the review of refusal procedure); or

(iii) the time when the decision on approving the registration or the decision on review of disapproving registration is made in the opposition or review of disapproving procedure (applicable where the trademark application is approved for registration after undergoing the procedures of opposition examination or review of disapproving registration).

This means that "old trademarks" subject to invalidation requests filed only after 2027 will not automatically be governed by the new law of 2027. To determine which version of the Trademark Law applies, it is necessary to trace back to the specific procedures and time nodes when the trademark was originally approved for registration. This is particularly important for multinational enterprises or time-honored brands with a long history of trademark registration in China.

(3) Review of Cancellation Cases: Anchored to "When the Cancellation Request is Filed" or "When the Cancellation Procedure is Initiated Ex Officio"

Administrative lawsuits filed by a party dissatisfied with a Decision on Review of Cancellation of a trademark shall be governed by the Trademark Law in force at the time when the requester applies for the cancellation of the disputed trademark or when the trademark administration department initiates the cancellation procedure ex officio.

III. Trademark Administrative Penalty Cases: Based on "When the Illegal Act Occurred" with an Exception for Lighter Penalties

Article 5 of the Draft for Comments stipulates that, administrative lawsuits filed by a party dissatisfied with an administrative penalty decision shall be governed by the Trademark Law in force at the time when the illegal act occurred. However, the Draft for Comments also sets forth an exception in favor of the parties: if the Trademark Law in force at the time the administrative penalty decision is made prescribes a lighter penalty or does not consider the act illegal, the Trademark Law in force at the time the decision is made shall apply. This provision fully embodies the spirit of the rule of law in protecting the legitimate rights and interests of administrative counterparts in administrative penalties.

This demonstrates that there is no uniform rule of "always looking at the application date" or "always looking at the decision date" across different types of trademark procedures. Instead, the applicable legal rules must be determined based on the specific procedures the trademark has undergone.

IV. Procedural Issues: Application of the Trademark Law in Force at the Time the Administrative Act is Made

Article 6 of the Draft for Comment stipulates that, in the administrative lawsuits filed against administrative acts such as review of refusal, invalidation, review of cancellation, and administrative penalties, the court, when examining procedural issues of the trademark administrative act, shall apply the Trademark Law in force at the time the administrative act is made.

This means that, within a single trademark administrative litigation case, the temporal application of the law must be determined separately for substantive issues (such as whether a mark constitutes similarity or possesses distinctiveness) and procedural issues (such as examination time limits and service procedures). In practice, this requires a more granular breakdown and analysis of the case facts.

For cases spanning the transition between the old and new laws, merely confirming "whether the case occurred in 2026 or 2027" is often insufficient. Instead, it is necessary to sort out specific dates, such as those of application, registration, filing of requests for invalidation or cancellation, and the issuance of administrative decisions.

V. Application of Law to Special Time Limits: How to Determine Whether an Opposition Application or Invalidation Request is Time-Barred

Article 7 of the Draft for Comment sets forth specific rules for the transition between the old and new laws regarding two highly controversial "preclusive periods": the trademark opposition period and the invalidation time limit:

Invalidation Time Limit: To examine whether an invalidation request is time-barred, the Trademark Law in force on the date of the announcement of approval of registration shall apply. In particular, for a disputed trademark whose approval of registration was announced less than one year before the entry into force of the Trademark Law as amended in 2001, the five-year time limit for requesting invalidation as stipulated in the 2001 Trademark Law shall still apply.

Opposition Period: Where the preliminary approval announcement date of a disputed trademark falls before the entry into force of the Trademark Law as revised in 2026, the three-month opposition period as stipulated in the Trademark Law as amended in 2019 shall apply.

VI. Practical Guidelines: How Should Enterprises Strategize and Respond During the Transition Period between the Old and New Laws?

For enterprises that already hold a trademark assets in China, or are currently handling Chinese trademark applications, oppositions, reviews, invalidation or cancellation cases, the period from late 2026 to early 2027 will be a critical legal transition period. It is recommended that enterprises focus on confirming the following time points:

- Focus on the filing date and the preliminary approval announcement date of a trademark application to determine in advance the version of the law applicable to the opposition period.
- Focus on the specific procedures and corresponding dates undergone for the approval of registration, to determine the applicable law for potential invalidation requests in the future;
- Focus on the estimated dates of the issuance of administrative decisions on reviews of refusal and reviews of disapproving registration, etc.;
- Focus on the filing dates of the requests for invalidation or cancellation;
- Focus on the time when the alleged infringement or other disputed acts occurred and continued, so as to guard against the potentially stricter civil liabilities that continuing infringing acts may face under the new law.

These critical timing points not only are an integral part of the facts of the case, but also directly determine which version of the Trademark Law the court applies.

Conclusion

SPC's Provisions on Several Issues Concerning the Temporal Application of the Trademark Law of China is currently still open for public comments, and its final text remains subject to change.

However, the current draft clearly indicates a fundamental trend: the transition between the old and new Trademark Laws will not adopt a simple one-size-fits-all approach, but will instead establish different temporal anchors based on the type of case.

For domestic and foreign enterprises that manage and operate trademark assets in China over long term, preparing for the implementation of the new Trademark Law in 2027 requires paying attention not only to "which rules have been revised by the new law" but also to the progress of their own cases, so as to precisely identify which set of rules on temporal application applies to a specific case, thereby formulating corresponding litigation strategies.

SPC: Do Identical Terms in the Same Claim Necessarily Carry the Same Meaning?

Case Background

Company A held a utility model patent titled "An Automatic Lock-Pin Assembly Mechanism." Claim 1 defined components including a lock-pin pushing device, a lock-pin positioning and alignment device, and a lock-pin pressing device. The term "same centerline" appeared twice in the claim.

In December 2020, Company B requested the CNIPA to invalidate the patent. Among the grounds, Company B argued that the technical solution of Claim 1 was unclear and incomplete, was not supported by the specification, and therefore did not comply with Article 26(4) of the Patent Law. On the basis of their dependency, Claims 2 to 7 had the same defect.

In June 2021, the CNIPA issued an invalidation decision, finding that the two uses of "same centerline" in Claim 1 were contradictory and inconsistent, and that a person skilled in the art could not clearly determine the scope of protection of that term. The CNIPA held that the overall technical solution of Claim 1 was unclear, and that Claims 2 to 7 were likewise unclear. The patent was invalidated in its entirety.

Company A sued, seeking to revoke the decision and requesting that the CNIPA re-examine the case. The first-instance court dismissed the claim in 2023. Company A appealed, and in December 2024, the SPC issued its second-instance judgment, revoking both the first-instance judgment and the CNIPA's decision, and ordering the CNIPA to conduct a new examination.

The SPC's Decision

The court held that: Whether a claim clearly defines the scope of protection must be assessed from the perspective of a person skilled in the art, taking into account the purpose of the invention, the full disclosure of the specification, and the technical solution as a whole, on the basis of a reasonable interpretation of the claim.

As a general rule, where the same expression or term is used to define features in the same claim, it carries the same meaning. However, where a person skilled in the art, based on the claim and the specification and in light of the context, can reasonably determine that the term has different meanings in different contexts, and the scope of protection is clear under that interpretation, the term should be interpreted as having different meanings. It should not be rigidly assumed that interpreting the same term as having different meanings causes the scope of protection unclear.

In this case, although "same centerline" appeared twice in Claim 1, the former term referred to the centerline shared by the lock-pin mounting hole on the lock body and the positioning hole, while the latter referred to the centerline shared by the lock-pin pushing device and the positioning hole.

Because the objects being defined and the contexts differed, the two uses did not necessarily carry the same meaning.

Reading the claims together with the relevant paragraphs of the specification and the drawings, the court found that the patent's main technical solution worked as follows: the lock-pin pushing device moves horizontally to deliver the lock pin above the positioning hole, and the lock-pin pressing device then moves vertically to press the lock pin through the positioning hole into the lock body. On that basis, a person skilled in the art could determine that the first "same centerline" meant that the lock-pin mounting hole and the positioning hole coincide along a longitudinal centerline, facilitating the pressing and assembly step, while the second "same centerline" meant that the transverse centerline of the lock-pin pushing device passes through the center of the positioning hole, allowing the lock pin to be delivered above the positioning hole. Under this interpretation, the scope of protection of Claim 1 was clear.

As for the fact that countless transverse centerlines pass through the center of the positioning hole on the support plate, so long as the transverse centerline of the pushing device passes through that center and no other component obstructs the movement, the pushing function can be achieved. Different angular choices therefore belong to the same technical solution rather than different technical solutions. The invalidation decision's finding that different positions of the relevant components would produce different technical solutions fell outside the scope of a reasonable interpretation by a person skilled in the art.

Accordingly, the invalidation decision's conclusion that the overall technical solution of Claim 1 was unclear and did not comply with Article 26, Paragraph 4 of the Patent Law was improper.

(2023) Zui Gao Fa Zhi Xing Zhong No. 485

SPC Ruling: Presumption and Calculation of Losses Suffered by Business Operators Due to Horizontal Monopoly Agreements

The SPC rendered a judgment in a horizontal monopoly agreement case, establishing that where a business operator enters into or performs contracts with a party to a horizontal monopoly agreement concerning the goods or services covered by the monopoly agreement during its implementation or within a reasonable period after termination, the operator shall be presumed to have suffered losses due to the agreement in the absent of rebutting evidence.

In March 2017, Company A, a construction company, signed a commercial concrete (i.e., ready-mix concrete (RMC)) sales contract with Company B, a concrete company, under which Company B was to supply RMC to construction projects designated by Company A. The contract stipulated the unit prices for different grades of RMC. In August 2018, Company B sent a price adjustment notice to Company A, proposing an increase in prices. Company A disagreed with the adjustment and demanded Company B to continue supplying concrete at the originally agreed prices in the contract. In September 2018, the two parties signed a supplementary agreement, raising the unit prices for all grades of RMC by CNY 90 per cubic meter on top of that in the original contract. After the supplementary agreement took effect, Company B supplied a total of 5,192.5 cubic meters of RMC to Company A by April 2020, and Company A paid for the concrete at the increased prices. In June 2021, a local market supervision authority issued an administrative penalty decision, finding that Company B and Company C, a building materials company, had reached and implemented a horizontal monopoly agreement between April 2014 and March 2019 to fix the prices of RMC and divide the sales market. During this period, only Company B and Company C were actually producing and selling RMC in the region. In April 2023,

Company A filed a lawsuit, claiming that Company B's implementation of the horizontal monopoly agreement had caused it losses and seeking compensation.

The court of first instance held that Company B participated in reaching and implementing a horizontal monopoly agreement to fix the price of commercial concrete and divide the sales market for RMC, which deprived Company A of its bargaining power and right to choose RMC. It was highly probable that this caused losses to Company A. The court determined that the losses should be calculated based on the price difference between the increased price and the originally agreed price, ordering Company B to compensate Company A for losses totaling CNY 467,325 (i.e., CNY 90 per cubic meter multiplied by 5,192.5 cubic meters). Company B appealed, arguing that Company A did not prove its losses were caused by the accused horizontal monopoly agreement and that the supplementary agreement has specified that the price increase was due to rising raw material costs.

The SPC, in its second-instance judgment, held: The sales contract and supplementary agreement between Company A and Company B were signed and performed during the implementation of the horizontal monopoly agreement between Company B and Company C. These contracts were influenced by the accused monopoly agreement from the outset and were not concluded or performed under normal, fair market competition conditions. The price increase borne by Company A was a direct result of Company B's implementation of the alleged monopoly agreement. Under these circumstances, it was reasonable to presume that Company A suffered losses due to the monopoly agreement.

Regarding the calculation of losses, since the competitive market price for RMC or substitute goods in the relevant market could not be ascertained, and there was no evidence showing that Company B had ever offered prices formed through free market competition before or after the implementation of the monopoly agreement, the prices stipulated in the original contract and supplementary agreement were both part of the "fixed prices" under the monopoly agreement. Given that Company A only claimed losses based on the price difference between the supplementary agreement and the original contract, the first-instance court's calculation of the direct economic losses - at least equal to the total price difference - was appropriate.

Company B argued that the price increase was wholly or partially due to non-monopolistic factors such as rising raw material costs. However, it bore the burden of proving the existence of such non-monopolistic factors or demonstrating the coexistence of monopoly and non-monopolistic factors, as well as reasonably distinguishing their respective impacts on the transaction prices. Failing to do so, Company B is obligated to bear the adverse consequences of insufficient evidence. Company B did not provide evidence in the regard, nor did it distinguish or explain the extent to which monopolistic factors (as opposed to non-monopolistic factors) contributed to the damages. The first-instance court's calculation of the losses based on the increase in the unit price of the traded goods was appropriate. Accordingly, the appeal was dismissed, and the original judgment was upheld.

This judgment clarifies the presumption of losses for business operators contracting with the party to horizontal monopoly agreements during the implementation period and specifies the burden of proof and legal consequences when the party to the monopoly agreement claims price increases are due to non-monopolistic factors. It reduces the evidentiary burden and difficulty of proof for plaintiffs in horizontal monopoly disputes, thereby actively safeguarding the legitimate rights and interests of victims of monopolistic conduct.

(2024) Zui Gao Fa Zhi Min Zhong No. 456