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IP-Related Laws Released for Public Comment

The Anti-unfair Competition Law (Second Draft for Review) has been deliberated at the 29th Session of the Standing Committee of the 12th National People's Congress and been issued for public comments.

To submit your comments

http://www.npc.gov.cn/COBRS_LFYJNEW/user/UserIndex.jsp?ID=8374741

The Standardization Law (Second Draft for Review) has been deliberated at the 29th Session of the Standing Committee of the 12th National People's Congress and been issued for public comments.

To submit your comments

http://www.npc.gov.cn/COBRS_LFYJNEW/user/UserIndex.jsp?ID=8374819

China Drafts Rules on Protecting IPRs of Foreign Companies

China's Ministry of Commerce (MOFCOM) has worked with other departments to draft a document on protecting the intellectual property rights (IPRs) of foreign companies.

The document will intensify the crackdown on malicious trademark registration, online IPR infringement and stealing business secrets.

IPR spending to overseas owners rose to \$24 billion in 2016 from \$1.94 billion in 2001, an annualized increase of about 18 percent. In the first half of this year, the amount rose 23 percent year-on-year to \$14.3 billion.

The country will improve IPR protection for foreign companies by launching campaigns against violations and stepping up judicial and administrative protection, according to a guideline on ensuring foreign investment growth released last week by the State Council.

http://www.chinadaily.com.cn/business/2017-08/26/content_31140204.htm

How to Enforce IPRs in China (Digest Version)

A valid IP right is usually the first step to safeguard your right when infringement is occurred. To establish a comprehensive enforcement strategy, at least the following aspects should be taken into accounts:

- Understanding your IPs and make different plans for core and peripheral assets
- Registering trademarks, domain names and filing patent applications as early as possible to obtain the corresponding rights
- Proceeding with copyright recordal as early as possible
- Marking your product to notify the public and competitors
- Placing border measures at the Customs for the import and export for monitoring counterfeits
- Preparing yourself and making advance plans for monitoring the status of the IPR infringements and disputes

The full text can be found at

<http://afdip.com/index.php?ac=article&at=read&did=3065>

SPC Released Big Data Report on IP Infringement

Recently, the Supreme People's Court released Judicial Big Data Report on IP Infringement, which made a statistical analysis about the concluded civil cases of first instance in 2015-2016. The Report pointed out that about 12,000 cases of IP infringement were concluded over the past two years, with a year-on-year increase of 41% in 2016.

The Report showed that copyright infringement cases accounted for 50.2% of all the IP cases nationwide, recording 6,000 to be exact, three quarters of which were about infringements upon the information network transmission right and screening right of works.

According to the report, defendants and plaintiff of IP cases were mainly legal persons, among which 87.32% of the plaintiff were legal persons. In terms of copyright disputes, although the shares of plaintiffs in all were not represented, the figure can be concluded through easy calculation. Among the copyright infringement cases, legal persons accounted for 74% of the plaintiffs.

From the report, the trials in most of the IP cases have supported or partially supported the claims of plaintiff as compared to only less than 8% of the cases not supporting them. This fully represents the status quo of domestic judicial efforts to strengthen IP protection, which on one hand encourages right owners to protect their rights and on the other hand, warns infringers.

<http://www.chinaipr.gov.cn/article/centralgovernment/201709/1911124.html>

MOFCOM: IPR Loyalties Increase by 489.4%

Payment for the use of China's intellectual property by overseas economies skyrocketed nearly 500 percent in the first seven months,

as the country's service export improves, data from the MOFCOM indicated on September 7.

The exports in emerging fields are valued at 405.75 billion yuan, increasing by 8.3% (compared to an overall increase of 4.4%) and accounting for 50.2% of the total exports (an increase of 1.8%). Specifically, IPR royalties, individual cultural and recreational services increase by 489.4%, 20.4% and 14.4% respectively.

Except insurance and finance, other emerging sectors keep positive growth. Imports in telecommunication, computing and information sectors record 71.79 billion yuan, an increase of 74.2%; imports contributed by IPR royalties reach 112.58 billion yuan, increasing by 25.8%.

Services involving professional management and consultation and telecommunication, computing and information contribute the major trade surplus to emerging sectors, with the figure reaching 57.59 and 39.02 billion yuan respectively from January to July in 2017. In July alone, deficit of service trade reaches 141.5 billion yuan, decreasing by 1.8% over June.

<http://www.chinaipr.gov.cn/article/centralgovernment/201709/1911120.html>

SIPO Published the Fifth Case for Public Trial

On September 15, the Patent Reexamination Board (PRB) under the State Intellectual Property Office (SIPO) held an oral hearing for the patent invalidation request case numbered 4W105696. Reportedly, it is the fifth case in the batch of major cases pending for public trial. The No. 201110029600.7 invention patent is held by NOVARTIS. The request for invalidation declaration is filed by Dai Jinliang.

In July 26, 2017, the involved cardiovascular drug Sacubitril/Valsartan was approved to enter Chinese market. Three specifications of Sacubitril/Valsartan marketed under the name

of Entresto® are researchable at the website of the China Food and Drug Administration (CFDA), which are imported drugs and manufactured by NOVARTIS. There are no relevant domestic drugs approved for marketing. A number of domestic pharmaceutical enterprises have filed applications for registration for Valsartan-Sacubitril with the CFDA, some of which have obtained the Drug Clinical Trial Approval. The decision of the court may have impact on the marketing of domestic generic drugs and expenditures of domestic patients.

PRB has established a five-judge panel for the trial of the case, including the examination experts and legal experts. The provisions the case is concerned with include Articles 26 (3) and (4) and 262 (3) of Patent Law and Article 20 (1) of the Implementation Rules of the Patent Law, which are common basis for request of invalidation of pharmaceutical patents. Both parties have submitted 24 types of evidences or in combination to prove the validity of the involved patent, covering patent examination documents, prior examination decision, patent documents, and experimental data and so on.

<http://www.chinaipr.gov.cn/article/centralgovernment/201709/1911119.html>

IPRs Fuel Momentum for China's Economic Development

China's economy continued steady expansion in the first half of 2017 with GDP up 6.9 percent year on year on the basis of comparable prices to about 38.149 trillion yuan, according to the latest data released by the National Bureau of Statistics (NBS). In the first six months, the added value of high technology industry and equipment manufacturing industry increased by 13.1% and 11.5% respectively while the manufacturing industry accelerated its steps to mid-to-high end level. Meanwhile, the IPR exports in the first half of 2017 maintained rapid growth, amounting to 14.94 billion yuan, up 458.4%.

Statistics show that in the first six months of 2017, several Chinese enterprises enjoyed medium-to-high speed growth of revenues and profits. It is worth noting that most of them are enterprises with an IPR advantage. Take ZTE Corporation as an example, it filed more than 1,000 patent applications via the PCT in the first half and its operation profits amounted to 3.294 billion yuan, up 564.83%. In the meantime, ZTE's growth rate in digital broadband market paced the world while its market share of optical networks ranked world top two. Huawei, hoarding 60,000 patents in total at home and abroad, also boasted its share of steady growth in the first six months of 2017 with its operating margin hitting 11%.

Statistics from SIPO show that in the first half of 2017, China granted 209,000 patent applications for invention, 160,000 of which were granted to domestic filers. The PCT applications received by SIPO climbed to 21,600 and up 16% year on year, 20,000 of which were filed by domestic applicants, up 15.3% year on year. As of the end of June 2017, China was in possession of 1,227,000 invention patents (not counting those originated from Hong Kong, Macau and Taiwan). Every 10,000 Chinese owned 8.9 invention patents.

Statistics released on the recent China Trademark Festival High-level Forum, the market supervision authorities for industry and commerce nationwide handled 28,000 cases about various trademark-related infringements and violations, involving the value of RMB 350 million. In the first half of this year, 130,000 law-violating trademark-related cases were handled at a value of RMB 140 million.

Also, it is learned that in the first half of 2017, China's trademark applications totaled 2.27 million, an increase of 30.81% over the same period of last year. It is expected that the total number this year will reach 5 million.

http://english.sipo.gov.cn/news/iprspecial/201709/t20170901_1318222.html;

<http://www.chinaipr.gov.cn/article/centralgovernment/201709/1910695.html>