

Table of Contents

Foreign Patent, Trademark Applications Increase in H1	1
Developments on Revision of The Patent Law	1
SPC Deputy Head: to Enhance IP Judicial Protection and Create a First-class Innovative Legal Environment	2
Knowledge-intensive Service Import & Export Grew 9.4% Year on Year	2
US Counterfeit Hearing Praises China's Effective Policies	3
Tighter Rules for Patent Agents Announced	3
Court Allows Parallel Import, Citing No Injury to TM Owner and Consumers	4

Foreign Patent, Trademark Applications Increase in H1

China recorded an 8.6% increase in the number of foreign patent applications in the first half of 2019, which reflects how China's efforts to strengthen intellectual property protection (IPR) appeal to foreign investors. Amid a global economic downturn, it also reflects foreign companies' rising confidence in the Chinese business environment.

Also, the number of foreign trademark applications rose by 15.4%, according to China's National Intellectual Property Administration (CNIPA).

Japan topped the list of foreign patent applications, up 12.6% year-on-year, followed by the US and Germany.

To improve China's innovation and business environment, the CNIPA will improve communication with foreign-funded and other enterprises, and treat all market players as equals. Also, the CNIPA has set up a national overseas intellectual property dispute guidance center to help Chinese companies that operate overseas.

<http://english.ipraction.gov.cn/article/News/201907/20190700224561.shtml>

Developments on Revision of The Patent Law

The Standing Committee of the held the first press conference earlier to introduce recent legislative works and answered questions from the media.

According to the conference, the revised draft of Patent Law was submitted to the 7th meeting of the Standing Committee of the 13th National People's Congress for deliberation in December 2018. The draft was released at the website npc.gov.cn from January 1 to February 3, 2019 for public inputs. During the period, 491 opinions from 208 public people were solicited and 25 letters from individuals, units and organizations were received.

The recommendations mainly include the following six aspects:

First, to enhance the protection of certain parts of a design;

Second, to promote the system building for on-duty inventions, so as to reflect the encouragement on on-duty inventions and meanwhile avoid the negative impact on the patent application by units;

Third, to further improve, specify and innovate the system of drug patent term extension;

Fourth, to identify their liabilities for relevant parties in cases of patent infringement online in accordance with the E-commerce Law and the Tort Liability Law concerning;

Fifth, to improve the administrative protection system for patents;

Sixth, to improve the system for patent infringement damage.

The above-mentioned comments will be taken into consideration in the process of revision.

<http://english.ipraction.gov.cn/article/News/201908/20190800226560.shtml>

SPC Deputy Head: to Enhance IP Judicial Protection and Create a First-class Innovative Legal Environment

Tao Kaiyuan, Deputy Head of the Supreme People's Court (SPC), during the International Symposium on IP Judicial Protection, briefed the achievements made and experience gained by China on IP judicial protection, and the practical international cooperation launched by the Chinese courts on IP judicial protection. She stressed that to enhance IP judicial protection not only echoes the needs of China to abide by the international rules and fulfill the international commitments, but also represents the internal needs for China to implement the innovation-driven development strategy, create good business environment and build an open economic system.

Tao pointed out that under new situations, the Chinese courts will adhere to the requirements of the national innovation-driven development strategy and the innovative system building, and provide firm support to innovation and creativity; will make more efforts on the technical innovation and development in key fields and upgrade the overall IP protection to a high level; will deepen the international communication and mutual-learning and improve the authority and international influence of China on IP judicial protection to work with other countries in tackling new opportunities and challenges and contributing the "Chinese wisdom" to the formulation of global IP rules.

Over 110 persons attended the Symposium, including the court representatives from US, UK, Germany, ROK and China, including Hong Kong and Macao SARs, experts from Chinese Academy of Sciences, Peking University, Zhongnan University of Economics and Law and Sun Yat-sen University as well as the officials from the market regulation departments in Guangdong.

<http://english.ipraction.gov.cn/article/News/201908/20190800226324.shtml>

Knowledge-intensive Service Import & Export Grew 9.4% Year on Year

The Service Trade Department of Ministry of Commerce (MOFCOM) released the general information about service import & export in the first half of 2019.

As is learned, China's service trade totaled 2612.46 billion yuan during the first half of the year, up 2.6% year on year. Service exports grew 9% to 933.37 billion yuan while the imports dipped 0.6% to 16.79.08 trillion yuan. The deficit stood at 745.71 billion yuan, down 10.5%.

In the first half of 2019, China's service import & export exhibited three characteristics:

First, China's trade of knowledge-intensive services maintained rapid expansion. The import and export reached 892.39 billion yuan and grew 9.4%, 6.8 percentage points higher than the total service growth rate and accounting for 34.2% of the total service volume, 2.2 percentage points up year on year. Knowledge-intensive service exports reached 467.41 billion yuan, up 12.1%; imports registered 424.98 billion yuan, up 6.5%. The fast growth was achieved in the following areas: the IPR royalties grew 33%; the export of telecommunications, computers and information services grew 15.7% and their import rose 19.6%.

Second, the share of service trade in the external trade was increasing. In the first half year, trade in services accounted for 15.1% of the total foreign trade, 0.5 percentage points higher than that of 2018.

Third, the deficit of service trade continued to narrow. In H1, the service export kept growing faster than that in the service import, 9.6 percentage points higher to be exact. The deficit about service trade decreased 87.49 billion yuan year on year.

<http://english.ipraction.gov.cn/article/News/201908/20190800225807.shtml>

US Counterfeit Hearing Praises China's Effective Policies

A recent hearing of the United States House Judiciary Committee has recognized Alibaba Group's ongoing efforts to fight counterfeits through the use of technology.

Representative Doug Collins told a hearing on Friday that Alibaba is doing the most to curb fake products by employing cutting-edge technologies to scan for and detect counterfeits and working closely with brand owners.

"We recently held a round-table to hear from brand owners and platforms on the issue. Which platform has demonstrated it is truly committed to stopping the sale of counterfeits and protecting consumers? By most accounts, it is Alibaba," Collins said he learned Alibaba's anti-counterfeiting policies and programs are "significantly more effective than any of their US counterparts". He added, "I find it shocking that the US counterparts are so far behind."

Collins also took his time to call out Amazon, eBay and Walmart for not being present, saying they cannot afford to "hide from this discussion".

"The way you solve problems is not by avoidance, but by actually taking the issues on. We're trying to make this better for you and the customer," he said.

Alibaba's intellectual property rights protection body, named the Alibaba Anti-Counterfeiting Alliance, has seen its membership rise from 30 at the alliance's establishment in 2017 to 132. The group now includes luxury brands such as Richemont, Burberry and Louis Vuitton. Alibaba uses technologies and algorithms to spot and take down infringing items before they even get on platforms, sending out alerts for products with a strikingly high proportion of customer complaints and looking into its manufacturing, distribution and supply chain.

<http://english.ipraction.gov.cn/article/News/201907/20190700224655.shtml>

Tighter Rules for Patent Agents Announced

The CNIPA recently announced new rules for patent agents and agencies. They will include supervision, punishment and law enforcement.

CNIPA called for patent agencies to conduct self-regulation and sign a pledge to act lawfully and ethically. It also called on local authorities to investigate law-breaking patent agents and agencies and punish them. CNIPA will supervise related illegal cases if needed and make sure they are well dealt with.

CNIPA said it would collect information about illegal behavior from members of the public, investigate and transfer tipoffs to local bureaus.

CNIPA plans to withdraw policy support for agencies which applied for unlawful patent applications in the first half of 2019.

By the end of August, CNIPA will launch an investigation into agencies that applied for improper patent applications in 2019. It also called for the cooperation of local authorities to investigate the improper validation of IP-related certificates.

In addition, CNIPA will investigate and punish bad behavior aimed at attracting business for patent agents. This is for those who placed dishonest advertisements and committed fraud by pretending to be a staff member of State organs.

CNIPA will also guide the industries to self-regulate, record all claims of illegal acts by patent agents from the public, train employees of patent agencies to increase their professional awareness and strengthen regulation of patent agencies and agents, according to the announcement.

Beyond all that CNIPA has initiated a campaign from April to November in 2019-20 to crack down on improper and illegal patent agents.

<http://english.cnipa.gov.cn/news/iprspecial/1141430.htm>

SUPPLEMENT ISSUE

Court Allows Parallel Import, Citing No Injury to TM Owner and Consumers

Nansha District People's Court in the Guangdong Free Trade Zone recently announced its first-in-stance judgment on the initial group of cases on parallel-import related trade-mark infringement and unfair competition. The Court held that the products involved are based on parallel import and the defendant's acts of importing and selling the products are not against the law. In this connection, the Court rejected all the claims of the plaintiff, OBD Bettermann (Shenzhen).

Parallel import is defined as "import a legally- manufactured product without the IP owner's consent" by the World Trade Organization (WTO). Regarding trademark- related parallel import, there is no provision in the Chinese Trademark Law neither for nor against it, making relevant IP disputes always open for discussion in court practices.

OBD Bettermann (Shenzhen), a wholly owned subsidiary of the Germany-based OBO Bettermann GmbH&Co. KG, was authorized to use-No.3214870 'OBO' trademark and No.G663678" trademark, respectively registered in 2006 and 2011 in China, exclusively here in China as well as enforcing these trademark rights in its own name.

OBD Shenzhen held that all of its lightning protectors were imported from Germany and sold either by itself or by authorized dealers. In December, 2017, the company found that the lightning protectors labeled with the trade-marks in question were sold by Guangdong Shifu Electric Industry Co. Ltd and used in a large construction project and neither itself nor its dealers was part of the transaction. The company claimed that Shifu has infringed its exclusive trademark right and breached unfair competition. It then brought three separate cases to Nansha District People's Court.

Shifu argued that the products involved were produced by enterprises authorized by OBO Germany and imported from Singapore dealers after clearing customs formalities. The products are genuine and authorized by the trademark owner. Having provided a series of evidence proving the legitimacy of the above- mentioned products, Shifu denied both charges of trademark infringement and unfair competition.

After hearing, the Court held that the imported products sold by Shifu were produced by OBO Germany and were genuine products. In court practices, they were deemed as parallel import goods. Shifu was importing products manufactured by OBD or manufactured with OBD's authorization and clearing customs formalities for these products. It did not violate any public policy and legal restrictions in China and should not be assessed negatively. In addition, Shifu's parallel import did not damage or distort the choices of market players and consumers, thus unfair competition was not in place.

In this connection, the court dismissed the claims of OBD Shenzhen, who has appealed the decision as of publication.

<http://english.cnipa.gov.cn/docs/2019-08/20190814095223255369.pdf>