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Holiday Notice

The offices of Chinese authorities and our firm will be closed

from Friday January 24th to Thursday 30th, 2020,

for the Spring Festival holidays.

Deadlines falling in this period are automatically extended to the next working day January 31st, 2020.

Implementing Regulations of Foreign Investment Law in Effect, Heavier Sanctions Against IP Violations

With Chinese Premier Li Keqiang's signature inked on a State Council order, the Implementing Regulations of the Foreign Investment Law of the People's Republic of China came into force on January 1, 2020.

The Regulations delivers heavier sanctions against IP violations, toughened IP law enforcement, a rapid, coordinated IP protection mechanism, diversified ways to settle IP disputes and impartial treatment of IPRs owned by foreign investors and foreign-invested enterprises.

Where patents of foreign investors and foreign-invested enterprises are involved in standard setting activities, relevant rules on standards concerning patents shall prevail.

Foreign investors' capital contribution, profits, capital gains, assets disposal income, intellectual property license fees, legally obtained damages or compensation,

liquidation proceeds, etc., may be freely remitted from and to overseas in RMB or foreign exchange according to law. No organization and individual may illegally impose restrictions on currency type, amount and frequency of entry and exit.

Where it is necessary for a foreign investor and a foreign-invested enterprise to submit materials or information concerning trade secret, the competent authority shall limit the use of the information to the extent of executing its official duty, strictly compartmentalize the information, and restrict the access of the personnel not on the need-to-know basis.

Authorities shall make their internal policies and invoke effective measures to protect the trade secrets of foreign investors and foreign-invested enterprises during official use. When another authority has to be looped in on the information, the sensitive part shall be compartmentalized.

As the said Implementing Regulations is in force, the Implementing Regulations of the Law on Sino-Foreign Equity Joint Ventures, the Implementing Regulations of the Interim Provisions Concerning Contract Period of Sino-Foreign Equity Joint Ventures, the Implementing Regulations of the Law on Wholly Foreign-owned Enterprises, and the Implementing Regulations of the Law on Sino-Foreign Contractual Joint Ventures are repealed simultaneously.

<http://english.cnipa.gov.cn/news/officialinformation/1145174.htm>

NPC Solicits Public Opinions on Draft Civil Code

[The full text of China's draft civil code](#) was published by the National People's Congress (NPC) to solicit public opinions. The deadline for submitting opinions is Jan. 26, 2020.

The 1,260-article draft civil code is scheduled to be submitted to next year's annual NPC session for deliberation in March.

As to IP concerns, the technology contract chapter includes several provisions regarding ownership of service invention, ownership of improvements, indemnities from infringement, and applications of laws when concerning Technology Import Export Regulations or other relevant regulations.

<http://www.npc.gov.cn/englishnpc/c2763/201912/a0645eabeb3d46e0a592d99fd484608a.shtml>

China Starts Pilot Program to Boost Civil Litigation Efficiency

China's Supreme People's Court issued a plan on a pilot program to explore new ways to handle simple civil cases after separating such cases from those complicated ones.

According to the plan, selected courts can expand the scope of mediation agreements eligible for judicial confirmation, raise the threshold for small claims cases, apply the summary procedure and the sole-judge system to more cases and improve the rules for online trials, without changing the current civil procedure law.

The parties can submit the litigation and evidence materials via the Internet when they choose to file the lawsuit online. Upon the consent of the addressees, the judgment, order or conciliation statement could also be delivered online, according to the plan.

With the consent of the parties, cases applicable to summary procedure or ordinary procedure may be tried via online video, the plan added.

The pilot program is expected to be carried out in courts at the intermediate and primary levels in cities including Beijing, Shanghai and Guangzhou, as well as three intellectual property courts, the Shanghai Financial Court and three internet courts.

The program will last for two years.

<http://english.ipraction.gov.cn/article/News/202001/20200100237373.shtml>

China Sees Increased IP Applications in 2019

According to a press conference on January 6, China sees increased IP applications and its campaign in improving IP quality has paid dividends.

In 2019, more than 1.4 million invention patent applications were filed in China. A total of 453,000 invention patents were granted, up 4.8 percent year-on-year; the number of invention patents owned by every 10,000 people reached 13.3, completing in advance the goals set in the 13th Five-Year Plan. Huawei Technologies Co., Ltd. had 4,510 invention patents authorized last year, ranking first on the Chinese mainland. SINOPEC ranked second with 2,883 authorized invention patents and smartphone manufacturer OPPO based in Guangdong ranked third with 2,614. Meanwhile 1.582 million utility model patents and 557,000 industrial design patents were granted in 2019.

By the end of 2019, the number of registered trademarks in China was 6.406 million and the valid registered trademarks totaled 25.219 million, with one trademark owned by every 4.9 market players on average. Additionally, there were 2,385 geographic indication (GI) products under protection and 5,324 registered GI trademarks.

In 2019, quality and efficiency of IP examination got better at a healthy rate with the pendency for high-value patents shrunk to 17.3 months; the average pendency for trademarks was curtailed to 4.5 months,

exceeding the target for the year confirmed by the State Council.

Patent and trademark pledge financing registered at 150 billion yuan. The total value of import and export of IP royalties reached 37.19 billion U.S. dollars in the first 11 months of 2019, of which the export amount was 6.01 billion U.S. dollars, up 19.2%. Elevated IP quality kept vaulting financial effectiveness.

China also ranked top of the world in annual applications for new plant varieties for the third year in a row. Major varieties are rice, wheat and soybean.

China moved up to rank the 14th in the 2019 Global Innovation Index Report published by the World Intellectual Property Organization.

<http://english.cnipa.gov.cn/news/iprspecial/1145400.htm>

US Grant Patents for Chinese Companies See Fastest Growth in 2019

The patent filings in the United States hit an all-time high in 2019 with 333,530 patents granted, an unprecedented 15% increase from 2018, according to the annual report released by IFI Claims.

Patents from Chinese mainland companies went up from 12,599 to 16,900, registering a 34.14% increase. The patents from US companies rose by 15.95 percent, making the second fastest increase.

According to the report, the US holds a 49% share of US patents granted in 2019, followed by Japan and South Korea. China moved up to a 5 percent share to rank the fourth place, surpassing Germany for the first time.

Two Chinese mainland companies are in the Top 15 this year. Huawei went up six places to 10 while BOE Technology went up four places to 13.

It has revealed that the Chinese companies are optimistic that the trade disputes between two countries can be resolved finally so they can tap into the US market.

Among the Top 10 Fastest Growing Technologies in terms of US patent growth are CRISPR technology, creating new hybrid plants, dashboards (mostly related to automobiles), 3D printing, and medicinal preparations (especially cancer therapies), according to the report.

<http://english.ipraction.gov.cn/article/News/202001/20200100237248.shtml>

Chinese Customs Seizes More Goods over IPR Infringement in 2019

China's customs seized more than 44 million pieces of infringing goods in 2019, up 78.3 percent year-on-year, data from the General Administration of Customs (GAC) showed on Jan 15.

China seized a total of 51,000 batches of infringing goods last year, among which 50,688 batches were export items, said GAC official Jin Hai.

The seizure protected the intellectual property right (IPR) of right-holders from 37 countries and regions.

In 2019, the GAC approved 13,087 applications for IPR protection, up 14 percent year-on-year. China has been stepping up crackdowns on IPR infringement. To boost high-quality trade development, customs is working more closely with other government agencies including commerce and taxation authorities to enhance coordination in law enforcement and supervision to better protect IPR.

The country also vows to strengthen the "top-level design" for IPR protection, which will see improved legal framework and development plans. The National Intellectual Property Administration said earlier this month that a priority of its work in 2020 is the faster creation of a strategic master plan to develop the country's IPR strength.

<http://english.ipraction.gov.cn/article/TypicalCases/202001/20200100237250.shtml>

SUPPLEMENTARY ISSUE

Company fined \$430,000 for MGM trademark infringement

A Shenzhen company was ordered to pay 3 million yuan (\$430,000) compensation each in two lawsuits filed by MGM Holdings for trademark infringement and unfair competition, a decision that prompted Chinese analysts to conclude Monday that China was showing equal legal treatment and enforcement of intellectual property rights (IPR) for Chinese and foreign firms.

The court ruled the company should stop the infringement, publicly dismiss the impact and compensate the Hollywood conglomerate a total of 6 million yuan in two cases, the maximum amount each under law.

Shenzhen MGM Films Company in South China's Guangdong Province, was convicted of unfair competition and trademark infringement by registering domain names containing "mgm," using the name "MGM" and the lion logo owned by MGM Holdings, while also authorizing more than 30 theaters across the country to operate under the brand name and logo, according to the judge of the case.

MGM Holdings has widely used and promoted the Metro Goldwyn Mayer (MGM) brand since its founding in 1924.

The brand is known to Chinese people through such movie series as James Bond and the Hobbit, according to the court.

"The result of the trial reflects the court's position in equally protecting the legal rights of Chinese and foreign enterprises," According to Judge Yang Jie who heard the case.

Yang noted the court would not be inclined to domestic parties in such infringement disputes involving foreign enterprises.

Chinese legal experts claim that Chinese people are showing an attitude of no favoritism toward domestic companies accused of infringement as people's awareness of intellectual property rights (IPR) has significantly improved.

In November, the general offices of the Communist Party of China (CPC) Central Committee and the State Council issued a directive calling for intensified protection of intellectual property rights, wherein it said "Strengthening IPR protection is the most important content of improving the IPR protection system and also the biggest incentive to boost China's economic competitiveness".

According to the document, by 2022, China will strive to effectively curb IPR infringement, and largely overcome challenges including high costs, low compensation and difficulties in providing evidence for safeguarding intellectual property rights.

<http://english.ipraction.gov.cn/article/TypicalCases/201912/20191200236259.shtml>