

Table of Contents

AFD China Recognized As a Recommended Firm Again by WTR 1000	1
CNIPA Released Draft Measures to Curb Abnormal Patent Filing Activities	1
China to End All Patent Subsidies.....	1
China to Set up 20 more IPR Centers in 2021	2
Foreign IP Firms May Set up a Representative Office in Beijing	2
Chinese Court Accepts Case against Tencent Filed by Douyin	2
Pharma-related Regulatory Developments.....	3
CNIPA Released Statistics of 2020.....	4
German Automotive Enterprises Thank Chinese Security Bureau for Crackdown IP Infringement Crime	6

AFD China Recognized As a Recommended Firm Again by WTR 1000

Our firm, by virtue of its last year’s outstanding performance in trademark prosecution and strategy, was again recognized as a recommended firm by the 2021 WTR 1000. Ms. Xia Zheng was also included as a recommended individual in the rankings for her extensive and excellent trademark expertise.

CNIPA Released Draft Measures to Curb Abnormal Patent Filing Activities

The China National Intellectual Property Administration (CNIPA) released the Measures on Regulating Patent Applications Activities (Draft for Comment).

Abnormal activities are defined as those violating the good faith principle and disrupting the normal filing and prosecution order.

Some examples are:

- filing at the same time or successively a number of patent applications that are obviously the same or essentially formed by simple combination of different features or elements;
- fabricating, forging or altering contents, experimental data or technical effects of an invention, or copying, substituting, piecing together existing technologies or existing designs in an invention;
- filing a number of patent applications in name of different applicants at different times

and via different local patent bureau while the cases are essentially owned or controlled by or related to a specific party, to avoid the regulatory measures.

Where abnormal activities are discovered, the CNIPA may form a special examination working group or authorize the examiner(s) to start a special examination procedure according to these Measures, the investigation result will be notified to the applicant and he will be invited to voluntarily withdraw the relevant patent application(s) or make a response to the investigation result. The CNIPA may further stop the parties' qualification for official fee reduction or waiver. https://www.cnipa.gov.cn/art/2021/2/10/art_75_156718.html

China to End All Patent Subsidies

By June 2021, all government subsidies for patent filing shall be cancelled. Local governments shall further aim at end all financial supports to patent filing and prosecution before the year of 2025.

In the transition period, the governments shall not offer financial support to patent applications in any form such as funds, awards and subsidies. The existing subsidies should be limited to only compensate granted invention patents (including overseas patents) after a patent receives grant announcement. The total amount of a subsidy shall not be higher than 50% of the official fees paid for obtaining patents, and annuity fees and services fees are not covered.

https://www.cnipa.gov.cn/art/2021/1/27/art_545_156433.html?xxgkhide=1

China to Set up 20 more IPR Centers in 2021

China plans to set up 20 more centers nationwide this year to offer quicker services and reduce duration and cost of intellectual property rights (IPR) protection.

The plan is part of China's continuous efforts to strengthen IPR protection. So far, the country has established more than 60 IPR protection centers and fast IPR service centers, together providing easy, efficient and low-cost assistance to market entities.

IPR protection centers are to address difficulties in obtaining evidence and reduce processing time and costs involved in IPR disputes, while the fast IPR service centers are aimed at providing county-level industry clusters quick IPR review, verification and protection.

<http://english.ipraction.gov.cn/article/ns/202102/336219.html>

Foreign IP Firms May Set up a Representative Office in Beijing

Authorized by a three-year pilot program of the CNIPA, foreign IP firms are welcome to open representative office in Beijing.

To establish a representative office, a foreign firm must have been practicing legally in its own country and received no discipline or administrative punishment.

The foreign firm shall have more than 10 patent agents practicing in its own country. Its appointed chief representative and representatives of the Beijing office shall have patent attorney qualification and have been practicing for not less than 2 years outside China and have not received any discipline or administrative punishment.

A representative office, once established, may offer training service, licensing and transfer service, consultation on overseas patent matters, legal consulting service on patent matters but shall not directly engage in patent

filing, prosecution, and invalidation procedures with China.

<http://www.bjpaa.org/news/shownews.php?id=7921>

Chinese Court Accepts Case against Tencent Filed by Douyin

The Beijing Intellectual Property Court accepted the case filed by the popular Chinese short-video platform Douyin (Chinese counterpart of Tiktok) against the Internet giant Tencent over alleged monopolistic behavior.

Douyin claims that Tencent has been placing restrictions on users sharing Douyin content on its social-media apps WeChat and QQ in violation of China's antitrust laws, and asking the court to order Tencent to cease its monopolistic practices.

Douyin said that Tencent's widely popular WeChat started to impose restrictions on more than 30 short-video apps, including Douyin and Kuaishou, in April 2018, on the pretext of "regulating online short videos." While WeChat's restrictions for Tencent-invested apps, such as Kuaishou and Weishi, were lifted later that year, its ban on Douyin's video links has been effective until now.

Tencent fired back later that day, claiming that Douyin's allegations were "maliciously framed" and that the short-video app has illegally obtained WeChat users' personal information through various methods of unfair competition.

In response to Tencent's statement, Douyin said that Tencent made false allegations about the so-called illegal access to WeChat users' personal information and that Tencent's restrictions on Douyin constitute a "monopolistic act of abusing a dominant market position to exclude or restrict competition," which violates China's anti-monopoly laws.

<http://english.ipraction.gov.cn/article/tc/202102/335791.html>

SUPPLEMENTARY ISSUE

Pharma-related Regulatory Developments

China's fourth amendment of the Patent Law will come into effect on June 1, 2021. The Implementing Rules of the Patent Law and the Guidelines for Patent Examination have been revised compatibly. Here are some changes you may find particularly relevant:

Drug patent term extension

Patents relating to a new drug approved for marketing in China may be granted a maximum five-year patent term extension by the patent administration department as a compensation for the time taken by regulatory review and approval; and the total effective patent term shall not exceed 14 years. While their scope, in particular the definition of "new drugs" remains to be clarified, these provisions embodies enhanced protection for original drugs, whose regulatory review and approval can take far longer time than generic drugs.

Pharmaceutical patent linkage system

The amendment has introduced a new article to provide legal basis for pharmaceutical patent linkage system and early dispute resolution for pharmaceutical patent-related disputes. If a dispute arises during the drug review and approval procedures, the relevant parties may bring a lawsuit, requesting the court to adjudicate whether the alleged infringing technical scheme applied for patent falls within the scope of patent protection of others and it does not consider to be a patent infringement litigation. After the court issues a decision, the National Medical Products Administration (NMPA) may, within the prescribed time limit, make a decision on whether to suspend the approval of the drug.

In addition, the relevant parties may also request the National Intellectual Property Administration (CNIPA) to make an administrative ruling on such disputes.

It remains to be seen how these principles will be implemented in practice. At present, the NMPA and Supreme People's Court are drafting and revising the Implementation Rules of Early Resolution Mechanism for Drug Patent Disputes (Trial) and the Judicial Interpretations on Several Issues Concerning the Application of Laws in the Trial of Patent Civil Cases Involving the Review and Approval of Drug Marketing, respectively. More information will be provided to you once available.

Examination on pharmaceutical patent applications

The CNIPA announced in January 2021 that it has adjusted some criteria for examining pharmaceutical patent applications. The adjustments are related to post-filing experimental data supplement, limitations of composition claims, determination of novelty and inventiveness of compounds, determination of inventiveness of genes, recombinant vectors, transformants, monoclonal antibodies, and polypeptides and proteins. We will watch the relevant changes in practice and provide guidance and comments in due course.

CNIPA Released Statistics of 2020

The China National Intellectual Property Administration held a press conference in late January and released the 2020 statistics and the trends behind the data. It shows that in 2020, China's main intellectual property indicators met the expectations and the development of intellectual property has reached a new level.

Patent

In 2020, 530,000 pieces of invention patents were authorized in China. As of the end of 2020, China's domestic (excluding Hong Kong, Macau, and Taiwan) valid number of invention patents was 2.213 million. The number of invention patents per 10,000 population reached 15.8 pieces, exceeded the target of twelve pieces expected in the "Outline of Thirteenth Five-Year Plan".

In 2020, there were 72,000 PCT international patent applications accepted, of which 67,000 pieces were submitted by domestic applicants.

In 2020, China authorized 2.377 million utility model patents and 732,000 pieces of design patents. There were 48,000 patent reexamination cases concluded, a year-on-year increase of 28.9%, and 7,000 invalidation announcement cases were concluded, a year-on-year increase of 34.1%.

Trademark

In 2020, 5.761 million trademarks were registered in China. There were 7,553 pieces of applications for Madrid international trademarks registration from domestic applicants were received.

In 2020, 149,000 trademark opposition cases were reviewed, a year-on-year increase of 64.7%; 358,000 trademark review cases were completed, a year-on-year increase of 7.8%.

Geographical indication

In 2020, ten applications for the protection of geographical indication products were accepted, six geographical indication products were approved for protection, 1,052 enterprises were approved to use geographical indication special signs, and 765 pieces of geographical indication trademarks were approved to be registered. By the end of 2020, a total of 2,391 geographical indication products have been approved, 9,479 companies using special signs have been approved, and 6,085 pieces of geographical indication trademarks have been registered.

Layout-design of Integrated Circuits

In 2020, China's layout-design of integrated circuit registration applications were 14,375, a year-on-year increase of 72.8%; 11,727 certificates were issued, a year-on-year increase of 77.3%.

IP Protection and Use

In 2020, the national intellectual property system handled over 42,000 administrative rulings on patent infringement disputes. The social satisfaction score of intellectual property protection exceeded 80 points for the first time, reached 80.05 points.

In 2020, China's patent and trademark pledge financing projects reached 12,039, an increase of 43.8% year-on-year; the total amount of pledge financing reached 218 billion yuan, an increase of 43.9% year-on-year.

The statistics further revealed four characteristics:

First, the quality and efficiency of intellectual property review have been further improved.

In 2020, the quality and efficiency of intellectual property examination in China will be steadily promoted. The examination period of high-value patents has been reduced to 14 months, the average examination period of invention patents has been reduced to 20 months, and the average examination period of trademark registration applications has been shortened to four months.

Second, the structure of domestic invention patents has been continuously optimized, and the quality has been further improved.

As of the end of 2020, among the effective domestic invention patents in China, 281,000 had been maintained for more than ten years, accounting for 12.3% of the total, an increase of one percent from the previous year. The dominant position of enterprise innovation was further consolidated. There were 246,000 domestic companies with valid invention patents, an increase of 33,000 from the previous year. Among them, there are 105,000 high-tech enterprises with 922,000 valid invention patents, accounting for nearly 60% of the number of valid invention patents owned by domestic enterprises.

Third, the ability of enterprises to deploy overseas intellectual property rights has been further enhanced.

In 2020, the PCT international patent applications submitted by domestic applicants increased by 17.9% year-on-year; the 'Madrid International Registration of Marks' received from domestic applicants has increased by 16.1% year-on-year. Relevant statistics showed that from January to November 2020, China's exports of intellectual property royalties amounted to 7.47 billion U.S. dollars, a year-on-year increase of 24.2%. All these fully demonstrated that the overseas intellectual property distribution capabilities of Chinese enterprises had been further enhanced.

Fourth, the countries along the "Belt and Road" are more confident in their development in China.

In 2020, countries along the "Belt and Road" will increase their patent distribution in China. Among them, 23,000 pieces of invention patent applications were filed in China, a year-on-year increase of 3.9%, which is higher than the year-on-year growth rate of foreign countries in China. Among them, Singapore increased by 21.0% year-on-year, and South Korea increased by 4.4% year-on-year.

<http://english.ipraction.gov.cn/article/ns/202101/334279.html>

German Automotive Enterprises Thank Chinese Security Bureau for Crackdown Intellectual Property Infringement Crime

Recently, German Association of the Automotive Industry, along with BMW (China) Automotive Trading Co., Ltd., Daimler AG, and Porsche AG, sent a thanks letter to the Ministry of Public Security, thank the Chinese police for cracking down on criminal acts of intellectual property infringement, and highly appraised the Chinese police's efforts to combat counterfeiting, achievements in counterfeiting crimes and protection of corporate intellectual property rights, and

sincere thanks to the public security organs and civilian police who investigated the case of manufacturing and selling of counterfeit BMW and auto parts of other brands.

In May 2020, under the guidance of the Ministry of Public Security, Jiangsu Provincial Public Security Department, and the Nanjing Public Security Bureau, the Qixia Branch of the Nanjing Public Security Bureau established a "5·27" task force based on clues to deal with the criminal gang headed by the suspect Chen. The suspected production and sale of counterfeit BMW, Mercedes-Benz, Porsche and other brand auto parts were investigated. Up to now, the task force has arrested sixty suspects engaged in production, processing, retail, etc., destroyed nineteen production and storage dens, and seized all kinds of fake BMW, Benz, Porsche and other brand car exterior accessories 50,000 pieces, and 32 production molds, with a total value of more than one hundred million yuan.

German Association of the Automotive Industry stated in the thanks letter that the successful investigation and handling of the case eliminated the potential safety hazards of counterfeit parts to consumers, protected intellectual property rights, Mercedes-Benz, Porsche and other companies, and recovered huge losses for companies. It has triggered great repercussions and strengthened all German companies' confidence, including German auto companies, to invest in China.

In recent years, public security bureaus in China have continued to crack down on criminal activities infringing intellectual property rights by law, resolutely safeguarded the general public and enterprises' legitimate rights and interests, and effectively optimized the business environment. According to statistics, since the launch of the "Kunlun 2020" special operation in May last year, as of the end of November 2020, public security bureaus in China had cracked 6,831 criminal cases of intellectual property infringement and counterfeiting, destroyed 4,248 counterfeit production and sales dens, and eliminated 1,646 criminal gangs, more than 14,000 criminal suspects were arrested, with a total value of 14.3 billion yuan involved.

<http://english.ipraction.gov.cn/article/ns/202102/335509.html>