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### **AFD China Once Again Recommended by IAM Patent 1000**

Recently, world-renowned IP business media platform Intellectual Asset Management (IAM) released the 2021 edition of IAM Patent 1000. AFD China was again recognized as a leading firm in the listing. Since 2016, this has been the fifth time AFD China was ranked in the listing, and our president Ms. Xia Zheng was again identified as a leading patent attorney.

<http://afdip.com/index.php?ac=article&at=read&did=3>

[917](#)

### **China Launches Public Consultation on the Anti-unfair Competition Law**

The Supreme People's Court (SPC) officially launched a month-long public consultation on the judicial interpretation of the anti-unfair competition law starting on Thursday as part of the effort to correctly address unfair competition disputes and maintain fair competition. The deadline for feedback is September 19, 2021.

In the draft law, the concept of "business ethics" is mentioned, which according to the law, refers to the generally accepted and followed code of conduct in a particular business area.

Acts that violate the principle of good faith and "business ethic", disrupt the order of market competition, harm the legitimate rights and interests of other operators or consumers but are not explicitly listed in corresponding law, may be affirmed by court. The court shall judge whether a business operator violates "business ethics" by taking into account

several specific circumstances of the case, including industry rules or commercial practices, the impact on market competition and the consumer's right to be informed and choose.

Other highlight includes the mention of "logos that have a certain impact" referring to a label with a certain market awareness and distinctive characteristics that distinguish the source of goods.

Those with certain social and market impact will be treated differently by law depending on the actual cases involved.

The regulations also clarify the definition of "misleading commercial propaganda" suggesting that if the product is advertised in an obvious and exaggerated way, which is not enough to cause misunderstanding on the public, this shall not be regarded as misleading commercial propaganda.

Internet, as an important part of people's everyday life in China, was mentioned eight times in the draft law involving network products or services, technical means and buyers and other objects.

<https://www.globaltimes.cn/page/202108/1232008.shtml>

### **Administrative Adjudication of Patent Infringement Disputes Advanced Steadily in the H1 2021**

In the first half of 2021, intellectual property offices across China steadily advanced administrative adjudication of patent infringement disputes. With a focus on key areas online and offline, important periods

and key links of the May Day and Dragon Boat Festival holidays, offices fostered greater synergy by pooling patent infringement governance workforce and achieved fruitful results. A total of 13,800 cases of administrative adjudication of patent infringement disputes were filed in different regions. Zhejiang, Jiangsu, Guangdong, Shanghai, Sichuan, Fujian, Hebei, Beijing, Shandong, and Henan ranked among the top in terms of the number of cases filed in China.

Next, the China National Intellectual Property Administration (CNIPA) will continue to thoroughly implement the requirements of the CPC Central Committee and the State Council on comprehensively strengthening the IPR protection and deploying the work of strengthening the administrative adjudication of intellectual property infringement disputes. It will coordinate all localities, take the construction of demonstration areas for patent administrative adjudication as the main task, enhance the guidance and raise the capabilities of administrative adjudication among the whole system. In doing so, CNIPA will better serve the country's economic and social development and provide a solid guarantee for applying the new development philosophy, creating a new development pattern and promoting high-quality development.

<http://english.ipraction.gov.cn/article/ns/202108/353282.html>

### **Procuratorial Organs Prosecutes the Most Crimes Concerning IPR Infringement in H1 2021 over Past 5 Years**

The Supreme People's Procuratorate (SPP) released data on major cases handled by procuratorial organs throughout the country from January to June of 2021.

To better serve and guarantee the construction of an innovative country, an IP prosecution office was set up by SPP last year, which implements the centralized and unified performance of criminal, civil and

administrative prosecution of IPRs. Pilot zones were set up in 9 provinces and municipalities, including Beijing and Shanghai to form a joint force for inspection and supervision.

In terms of criminal prosecution, in the first half of 2021, procuratorial organs across the country prosecuted 6,017 people for IPR infringement, a year-on-year increase of 12.6 percent, and the prosecution rate reached 91.8 percent, which was 6.2 percent higher than that of overall criminal offence. This was the highest point of the past five years, indicating that procuratorial organs have continuously stepped up efforts on the fight against IPR infringement.

In terms of civil prosecution, cases involving IPR infringement have also increased significantly. From January to June, a total of 100 effective civil judgments and mediation concerning IPRs and competition disputes were accepted, an increase of 88.7 percent year on year.

<http://english.ipraction.gov.cn/article/ns/202107/350719.html>

### **Report Shows Fair Judicial Environment for IP Protection of Internet Enterprises**

On August 16, the University of Political Science and Law released the Data Analysis Report on Judicial Protection of Intellectual Property Rights in the Internet Field. The report reviewed a series of litigation cases and related data on China's intellectual property judicial trials over the past 20 years and found that:

By comparing the win rates of IPR cases of various Internet enterprises, a higher than 70% is achieved by internet enterprises in their IPR-related cases, and the winning rate does not vary much within the range of 80% to 90% where the internet enterprises are plaintiff. No enterprise outstands from others with significantly higher or lower winning rate. The report further points out that Chinese courts handle IPR cases of Internet

enterprises with an overall balanced and uniform scale of adjudication, adhere to judicial neutrality, and do not have special preference in term of geographic location, industrial field or certain enterprise.

By selecting Beijing, Hangzhou and Shenzhen as the geographical variables, 2018 to 2020 as timeframe, and awareness of IP protection and ability of management of the enterprises as factors, the report points out that Beijing, Hangzhou and Shenzhen treat each internet enterprise equally and neutrally, and there are no obvious differences depending on the domicile of internet enterprises. There is no so-called "home/away" effect in courts' handling of IPR cases of internet enterprises, and can adhere to the principle of "fact-based and law-based", no local protectionism.

At the same time, judicial protection of intellectual property plays a role in promoting independent innovation and upgrading technology industries. The report shows that, in the background of increased protection of intellectual property rights in general, enterprises also maintain an optimistic attitude towards investment in science and technology innovation. According to a survey, 38.2% of the enterprise patent owners expect the income from patent implementation to increase in the coming year, 35.1% expect the income to remain the same, only 3.8% expect the income to decrease, and the proportion of those who choose "unclear" is 22.9%. The fact that corporate patent owners in China are generally optimistic about the future growth of patent utilization revenue reflects, to a certain extent, the incentive effect of improved IP judicial protection.

[http://www.ccpit.org/Contents/Channel\\_4133/2021/0823/1361654/content\\_1361654.htm](http://www.ccpit.org/Contents/Channel_4133/2021/0823/1361654/content_1361654.htm)

### **Intentional IPR Infringement Adds to the List of Violations of Laws and Good Faith Principles**

The General Administration of Market Supervision has passed and promulgated the

Measures for the Administration of List of Serious Violations of Laws and Good Faith Principles (the Measures). From September 1, 2021, enterprises with bad behaviors such as infringing trade secrets and intentionally infringing intellectual property rights will be included in the list of enterprises with serious violations of laws and good faith principles.

Article 9 of the Measures shows that enterprises that commit inappropriate acts that undermine fair competition order and disrupt market order will be included in the list of serious violations of laws and good faith principles. The acts include but not limited to infringement of trade secrets, commercial slander, organization of false transactions and other unfair competition behaviors that seriously disrupt the fair competition order; intentional infringement of intellectual property rights; submitting abnormal patent applications or malicious trademark registration applications that harm the public interest; engaging in serious illegal patent or trademark work representation.

The Measures point out that nature of such acts, seriousness of circumstances, and harmfulness to the society, factors such as subjective intention, frequency and duration of the act, applicable punishment type and amount of fines, value of products, harmfulness to people's lives and health, property loss and social impact should be comprehensively considered when determine the punishment. If the parties have sufficient evidence to prove that they have no subjective intention, they will not be included in the list.

At the same time, the Measures also clarify the conditions and procedures for applying for early removal (credit reparation) in order to encourage parties who violated laws of good faith principles to take the initiative to correct mistakes and rebuild credits.

[http://k.sina.com.cn/article\\_7517400647\\_1c0126e470590182ym.html?sudaref=www.baidu.com&display=0&retcode=0](http://k.sina.com.cn/article_7517400647_1c0126e470590182ym.html?sudaref=www.baidu.com&display=0&retcode=0)

### **IPR Protection Centers Expand the Work Related to Rapid Patent Confirmation**

To further strengthen the one-stop intellectual property rights (IPR) protection services of IPR protection centers covering rapid patent examination, confirmation, and protection, and implement the requirements of the Leading Party Members' Group of the China National Intellectual Property Administration (CNIPA) of the whole-chain expansion from rapid examination to invalidation, reexamination, confirmation, and protection, CNIPA recently launched a pilot project of the multi-mode trial of patent reexamination and invalidation cases to promote the expansion of rapid patent rights confirmation.

China (Beijing), China (Pudong), China (Nanjing), and China (Zhejiang) Intellectual Property Protection Centers will undertake the pilot work. During the one-year pilot period, prioritized examination channels for patent reexamination and invalidation cases will be opened, and judicial hearings will be conducted via remote video links for invalidation cases. In addition, efforts will be made to promote the joint trial of patent confirmation cases and administrative adjudication cases.

<http://english.ipraction.gov.cn/article/ns/202108/353283.html>

### **Information Joint Release Mechanism Established by Tech Trading Centers**

Fifteen tech trading centers joined hands to establish a national information release mechanism regarding intellectual property, as well as technological achievements, in mid-August.

The parties include the China Technology Exchange in Beijing and the IP International Exchange of Hainan. The move aims to enhance cooperation in the release of information and improve efficiency in tech

trade. On the same day, they together released the first 100 tech and IP projects.

[http://www.cnipr.com/sj/zx/202108/t20210819\\_243933.html](http://www.cnipr.com/sj/zx/202108/t20210819_243933.html)

### **Huawei Sues PanOptis for Monopoly Infringement**

Recently, the first-instance civil ruling on the disputes between Huawei Technologies Co., Ltd., Huawei Terminal Co., Ltd., et. al. (plaintiff), and Pan Opuntis Patent Management Co., Ltd., et. al. (defendant), was made public.

According to the ruling, the defendant believed that the dispute involved in this case were 1) whether the licensing conditions for the 2G, 3G and 4G standard-essential patents violated the FRAND (fair, reasonable and non-discriminatory) principle, and 2) whether the dominant position in the market was abused.

The defendant also claimed that Chinese courts had no jurisdiction over this case. Since 2014 the plaintiff and the defendant had conducted negotiations on the license rate in Shenzhen and other places in China, but no agreement has been reached. During the negotiation, the defendant sued in the courts of Germany, the United States and other countries on the grounds that the plaintiff infringed its patent right.

On the other hand, the plaintiff believed that the defendant the defendant has a dominant civil tort lawsuit and required the defendant to bear legal responsibility. They also believed that the legal disputes between the plaintiff and the defendant in foreign countries does not authorize a repeated trial.

So far, the court has rejected the objection raised by the defendant on the jurisdiction of this case.

<https://www.163.com/dy/article/GHORN98051986PN.html>