

Table of Contents

The Standing Committee of the National People's Congress (NPC) passes the Decision on Amending the Administrative Reconsideration Law of the People's Republic of China..... 1
China Sees over 8,000 Patent Open License Agreements since 2022..... 1
Huawei and Ericsson Sign Long-term Patent Cross-licensing Agreement 2
CNIPA Deputy Commissioner Meets Nike, Inc.'s VP/Chief Public Policy & Social Impact Officer 2
China's Antitrust Regulator Imposed Fines and Confiscations Totaling over 3 Million Yuan in 2023..... 2
Tesla Sues Bingle Intelligent Technology over Tech Decret Infringement..... 2
TP-Link Hit with \$37.5m Verdict in Patent Dispute 3
Huawei and Xiaomi Reach a Global Cross-Licensing Deal 3
China Strengthens Patent Examination for Cutting-edge Industries 3
The NPC passes the Decision on Amending the Civil Procedure Law of the People's Republic of China..... 4

The Standing Committee of the National People's Congress (NPC) passes the Decision on Amending the Administrative Reconsideration Law of the People's Republic of China

On September 1, 2023, the NPC issued Presidential Order No. 9, promulgating the newly revised Administrative Reconsideration Law of the People's Republic of China. The revised law will come into effect on January 1, 2024.

The revised Administrative Reconsideration Law further strengthens the guarantee of administrative reconsideration functions, improves relevant requirements for administrative reconsideration work, expands the scope of administrative reconsideration, and better utilizes the function of administrative reconsideration in resolving administrative disputes and controversies. It introduces measures to facilitate administrative reconsideration applications, reflecting the institutional advantages of administrative reconsideration in providing convenience and service for the people. It also improves the jurisdiction system and channels for the review procedure of administrative reconsideration, adjusts and optimizes the decision-making system of administrative reconsideration, and highlights the institutional characteristics of substantively resolving administrative disputes through administrative reconsideration.

Please see the following link for the full text of the Law:

<http://www.npc.gov.cn/npc/c30834/202309/866bc00eddfb407d8faa9deeb6e811d1.shtml>

China Sees over 8,000 Patent Open License Agreements since 2022

As of June 2023, more than 8,000 patent open license agreements have been reached since the China National Intellectual Property Administration (CNIPA) launched the Trial Program on Patent Open License, according to news released on the official website of the CNIPA on August 25. CNIPA launched the Trial Program in May 2022 to promote the implementation of its Patent Open License System introduced by the revised Chinese Patent Law in 2020. Since its implementation, the Trial Program has attracted participation of more than 1500 patent holders from 22 Chinese provinces and around 35,000 patents that are market-oriented and easy to implement have been promoted to 76,000 target enterprises, CNIPA said.

<http://www.chinaipmagazine.com/en/news-show.asp?id=12799>

Huawei and Ericsson Sign Long-term Patent Cross-licensing Agreement

Huawei and Ericsson have signed a long-term global patent cross-licensing agreement that covers patents essential to a wide range of standards such as 3GPP, ITU, IEEE, and IETF standards for 3G, 4G, and 5G cellular technologies, Huawei announced Friday on its official website. Huawei said that the agreement covers the companies' respective sales of network infrastructure and consumer devices, granting both parties global access to each other's patented, standardized technologies. "This agreement is the result of intensive discussions that ensured the interests of both patent holders and implementers are served fairly," said Alan Fan, Head of Huawei's Intellectual Property Department.

<http://www.chinaipmagazine.com/en/news-show.asp?id=12800>

CNIPA Deputy Commissioner Meets Nike, Inc.'s VP/Chief Public Policy & Social Impact Officer

Hu Wenhui, Deputy Commissioner of the CNIPA met Jorge Casimiro, Vice President and Chief Public Policy & Social Impact Officer of Nike, Inc. in Beijing on August 24.

Hu said that the Chinese government has always been attaching great importance to IP protection and making tremendous progress in establishing and improving relevant legal system, strengthening construction of competent authorities and teams, and ramping up public awareness in respecting and protecting IPRs. The CNIPA has always equally protecting the legitimate rights and interests of Chinese and foreign parties and right holders in accordance with the law and is expecting that Nike could deliver more messages to the world to reflect a fair, objective, true and whole picture of the Chinese IP system, allowing more U.S.

companies and people to know the latest development and progress of our IP system.

Casimiro appreciated China's palpable results in IP protection. He introduced Nike's efforts in trademark protection in China and looked forward to strengthening communication with the CNIPA.

CNIPA principal officials responsible for the International Cooperation Department and the Trademark Office also attended the meeting.

https://english.cnipa.gov.cn/art/2023/8/31/art_1340_187166.html

China's Antitrust Regulator Imposed Fines and Confiscations Totaling over 3 Million Yuan in 2023

China's antitrust regulator has handled 6870 cases related to unfair competition, imposing fines and confiscations totaling over 304 million Yuan, said Lv Jun, deputy director of the State Administration for Market Regulation, at a press conference held on September 4 by the State Council Information Office. Lv Jun also pointed out that by the end of August this year, market regulators had investigated and dealt with 17 cases involving monopoly agreements and abuse of dominant market position, with 910 million yuan fined and confiscated. In addition, to fully implement fair competition policies and systems, the regulator has dealt with 13 cases related to the abuse of administrative power to exclude and restrict competition.

<http://www.chinaipmagazine.com/en/news-show.asp?id=12803>

Tesla Sues Bingling Intelligent Technology over Tech Decret Infringement

Tesla Shanghai has sued a Chinese firm over tech secret infringement and unfair competition disputes, Shanghai Securities Journal reported on Tuesday. The lawsuit

against Bingling Intelligent Technology, a chip designer and auto parts maker based in Changzhou, Jiangsu province, will be heard in the Shanghai intellectual property court on October 10, according to the report.

<http://www.chinaipmagazine.com/en/news-show.asp?id=12804>

TP-Link Hit with \$37.5m Verdict in Patent Dispute

A federal jury in Marshall, Texas, on Thursday found that Shenzhen-based telecommunications equipment manufacturer TP-Link owes nearly \$37.5 million for infringing at least one claim in a licensing company, Atlas Global Tech's five patents. Atlas Global Tech is an affiliate of IP marketing venture Acacia Research, which sued in 2021 and accused TP-Link of selling products that were made to comply with a 2017 wireless standard called 802.11ax-2021, also known as "Wi-Fi 6". Atlas Global Tech obtained these patents from Newracom.

<http://www.chinaipmagazine.com/en/news-show.asp?id=12807>

Huawei and Xiaomi Reach a Global Cross-Licensing Deal

A statement from Huawei shows it has inked on a global patent cross-licensing deal with Xiaomi. Previously, Huawei sued Xiaomi for infringing of four patents related to smartphone photography, wireless communication technology, and screen lock technology. Not long ago in August, Huawei and Ericsson signed a long-term global patent cross-licensing agreement. Apart from Ericsson and Xiaomi, Huawei has signed nearly 200 bilateral licensing agreements, with over 350 companies obtaining Huawei patent licenses through a patent pool. It is reported

that Huawei's patent licensing revenue from 2019 to 2022 was more than \$1.2 billion.

<http://www.chinaipmagazine.com/en/news-show.asp?id=12806>

China Strengthens Patent Examination for Cutting-edge Industries

CNIPA said on Thursday it had stepped up examination efforts to better protect patents in the fields of big data, artificial intelligence (AI), genetic technology. It has revised examination standards for these cutting-edge industries, expanding patent scope and providing higher examination quality and efficiency, said Wu Hongxiu, Deputy Director of Patent Examination Management Department of CNIPA, at a press conference. To support sci-tech innovation and IP protection in emerging industries and new business forms, the administration has been more open on patent data, making 18 databases on frontier technologies accessible to the public, Wu added.

<http://www.chinaipmagazine.com/en/news-show.asp?id=12805>

SUPPLEMENTARY ISSUE

The NPC passes the Decision on Amending the Civil Procedure Law of the People's Republic of China

On September 1, 2023, at the fifth meeting of the Standing Committee of the 14th NPC, the draft amendment to the Civil Procedure Law of the People's Republic of China was deliberated and adopted. The revised Civil Procedure Law will come into effect on January 1, 2024.

The revised Civil Procedure Law provides detailed provisions on jurisdiction, especially in relation to the jurisdiction over foreign-related civil disputes. For example:

- The second paragraph of Article 130 is amended to: "Where the party raises no objection to the jurisdiction of the case and responds to the claim and enters defense or raises a counterclaim, the people's court accepting the case shall be deemed to have jurisdiction over the case, unless it is in violation of the provisions regarding jurisdiction by level and exclusive jurisdiction."
- Article 272 is amended to Article 276: "Where an action other than those concerning personal relationships is instituted against a defendant without a domicile within the territory of the People's Republic of China due to a foreign-related civil dispute, if the place where the contract was executed, the place where the contract was performed, the place where the subject matter of the action is located, or the place where the distrainable property is located, the place where the tort was committed or the place where the representative office is domiciled is within the territory of the People's Republic of China, the action may come under the jurisdiction of the people's court of the place where the contract was executed, the place where the contract was performed, the place where the subject matter of the action is located, the place where the distrainable property is located, the place where the tort was committed or the place where the representative office is domiciled.

Apart from the preceding provision, where a foreign-related civil dispute has other appropriate connections with the People's Republic of China, it may come under the jurisdiction of a people's court."

- A new article is added as Article 277: "If the parties to a foreign-related civil dispute agree in writing to be subject to the jurisdiction of a people's court, it may come under the jurisdiction of a people's court."
- A new article is added as Article 278: "Where the party raises no objection to the jurisdiction of the case and responds to the claim and enters defense or raises a counterclaim, a people's court shall be deemed to have jurisdiction over the case."
- Article 273 is amended to Article 279: "the following civil cases shall come under the exclusive jurisdiction of a people's court:
 - (1) an action instituted for a dispute over the establishment, dissolution or liquidation of a legal person or any other organization established within the territory of the People's Republic of China or over the validity of a decision made by such legal person or other organization;
 - (2) an action instituted for a dispute concerning the validity of an intellectual property examined and granted within the territory of the People's Republic of China;

(3) an action instituted for a dispute arising from the performance within the territory of the People's Republic of China of a Sino-foreign equity joint venture contract, a Sino-foreign cooperative joint venture contract or a contract for Sino-foreign cooperative exploration and development of natural resources.”

- A new article is added as Article 280: “For a same dispute between the parties concerned, where one party institutes an action in a foreign court and the other party institutes an action in a people's court, or one party institutes an action in both a foreign court and a people's court, if the people's court has jurisdiction over the action in accordance with this Law, the people's court may accept the action. Where the parties conclude an exclusive jurisdiction agreement to be subject to the jurisdiction of a foreign court and do not violate the regulations on exclusive jurisdiction herein or involve the sovereignty, security or public interest of the People's Republic of China, the people's court may rule not to accept the action; if the action has been accepted, a ruling shall be made to reject it.”

- A new article is added as Article 281: “Where after a people's court accepts an action in accordance with the provisions of the preceding article, a party concerned submits a written application to the people's court to suspend the action on the grounds that a foreign court has accepted the action earlier than the people's court, the people's court may rule to suspend the action, unless one of the following circumstance exists:

(1) the parties agree to be subject to the jurisdiction of the people's court, or the dispute is subject to the exclusive jurisdiction of the people's court;

(2) it is obviously more convenient for the people's court to handle the trial

Where the foreign court fails to take necessary measures to try the case or fails to conclude the case within a reasonable time limit, the people's court may resume the action upon a written application by the party concerned.

Where a legally effective judgment or ruling made by a foreign court has been recognized in whole or in part by a people's court, if the party concerned institutes another action in the people's court against the recognized part, a ruling shall be made not to accept the action; if the action has been accepted, a ruling shall be made to reject it.”

- A new article is added as Article 282: “Where a defendant raises an objection to the jurisdiction over a foreign-related civil case accepted by a people's court, and meanwhile all of the following circumstances exist, the people's court may rule to reject the case and inform the plaintiff to institute an action in a more convenient foreign court:

(1) the basic fact disputed in the case did not take place within the territory of the People's Republic of China, and it is obviously inconvenient for the people's court to try the case and for the parties to attend the trial;

(2) the parties make no agreement to be subject to the jurisdiction of the people's court;

(3) the case is not subject to the exclusive jurisdiction of the people's court;

(4) the case does not involve the sovereignty, security or public interest of the People's Republic of China;

(5) it is more convenient for a foreign court to try the case.

Where after a ruling is made to reject the action, the foreign court refuses to exercise its jurisdiction over the dispute or fails to take necessary measures to try the case or fails to

conclude the case within a reasonable time limit, and the party concerned institutes an action in the people's court again, the people's court shall accept the action."

- A new article is added as Article 301: "Under one of the following circumstances, the people's court shall determine that the foreign court has no jurisdiction over the case:
 - (1) the foreign court has no jurisdiction over the case in accordance with the law of the country of the foreign court, or although it has jurisdiction in accordance with the law of its country, it has no appropriate connection with the disputed involved in the case;
 - (2) there is or would be no violation of the provisions herein on exclusive jurisdiction;
 - (3) there is or would be no violation of the agreement between the parties on an exclusive court jurisdiction."

The revised Civil Procedure Law also includes specific provisions regarding evidence collection, enforcement of judgments and rulings, and immunities. The details are as follows.

- A new article is added as Article 284: "Where a party applies to a people's court for investigation and collection of evidence located outside the territory of the People's Republic of China, the people's court may investigate and collect the evidence according to an international treaty concluded between or jointly acceded to by the country where the evidence is located and the People's Republic of China or through diplomatic channels.

Unless prohibited by the law of the country where a party or a witness is located, a People's Court may investigate and collect evidence by the following means:

- (1) entrusting the Chinese embassy or consulate in that country to collect evidence where the party or witness is a national of the People's Republic of China;
 - (2) collecting evidence through instant communication tools upon agreement by the two parties;
 - (3) by other means agreed by the two parties."
- Article 287 is amended to Article 297, and its second paragraph is amended to: "If a party applies for enforcement of a legally effective judgment or ruling made according to law within the territory of the People's Republic of China and the party subject to enforcement or his property is not located within the territory of the People's Republic of China, the applicant may directly apply for recognition and enforcement to the foreign court with jurisdiction."
 - Article 288 is amended to Article 298: "If a legally effective judgment or ruling made by a foreign court requires recognition and enforcement by a people's court, the party concerned may directly apply for recognition and enforcement to the intermediate people's court with jurisdiction. Alternatively, the foreign court may, pursuant to the provisions of an international treaty concluded between or acceded to by the foreign state and the People's Republic of China, or in accordance with the principle of reciprocity, request the people's court to recognize and enforce the judgment or ruling."
 - Article 289 is amended to Article 299: "Having received an application or a request for recognition and enforcement of a legally effective judgment or ruling of a foreign court, a people's court shall review such judgment or ruling pursuant to international treaties concluded or acceded to by the People's Republic of China or in accordance with the principle of reciprocity. If, upon such review, the people's court considers that such judgment or ruling neither contradicts the basic principles of the law of the People's Republic of China

nor violates State sovereignty, security and the public interest, it shall rule to recognize its effectiveness. If enforcement is necessary, it shall issue an order of enforcement, which shall be implemented in accordance with the relevant provisions of the Law.”

- A new article is added as Article 300: “Having received an application or a request for recognition and enforcement of a legally effective judgment or ruling of a foreign court, a people’s court may, upon reviewing such judgment or ruling, rule not to recognize or enforce it under one of the following circumstances:

- (1) the foreign court has no jurisdiction over the case according to Article 301 of this Law;
- (2) the defendant has not been lawfully summoned, or has not been given a reasonable opportunity to make a statement or debate despite being lawfully summoned, or the party without litigation capacity has not been properly represented;
- (3) the judgment or ruling by the foreign court was obtained fraudulently;
- (4) a people’s court has already rendered a judgment or ruling on the same dispute, or has recognized a judgment or ruling made by a court of a third country on the same dispute;
- (5) there is or would be a violation of the basic principles of laws of the People’s Republic of China or harm of the State sovereignty, security, or public interest of the People’s Republic of China.

- A new article is added as Article 302: “If a party applies to a people’s court for recognition and enforcement of a legally effective judgment or ruling made by a foreign court, and such judgement or ruling concerns the same dispute as being tried by the people’s court, the people’s court may rule to suspend the lawsuit.

Where a legally effective judgment or ruling made by a foreign court does not meet the conditions for recognition under this Law, a people’s court shall rule not to recognize or enforce it and shall resume the suspended lawsuit; where such judgment or ruling meets the conditions for recognition under this Law, a people’s court shall rule to recognize its effect and issue an enforcement order to enforce it in accordance with this Law where enforcement is needed, and the already suspended lawsuit shall be ruled to be rejected.”

- A new article is added as Article 303: “If a party disagrees with the ruling of recognition and enforcement or non-recognition and non-enforcement, it may make an application for reconsideration to the people’s court at the next higher level within ten days of service of the ruling.”
- Article 290 is amended to Article 304: “If a legally effective arbitration award made outside the territory of the People’s Republic of China requires recognition and enforcement by a people’s court, the party concerned may directly apply for recognition and enforcement to the intermediate people’s court of the place where the party subject to enforcement is domiciled or where his property is located. If the domicile or property of the party subject to enforcement is not within the territory of the People’s Republic of China, the applicant may apply for recognition and enforcement to the intermediate people’s court of the place where the applicant is domiciled or which has appropriate connections with the dispute decided in the award. The people’s court shall handle the matter pursuant to international treaties concluded or acceded to by the People’s Republic of China or in accordance with the principle of reciprocity.”

- A new article is added as Article 305: “Laws of the People’s Republic of China in relation to the immunity of foreign States apply for civil litigation concerning a foreign State; this Law applies if the relevant laws do not contain any relevant provisions.”

Please see the following link for the detailed text of the Decision:

<http://www.npc.gov.cn/npc/c30834/202309/1c3f7c62678d4908807faab87aa40dff.shtml>