

W&B IP Newsletter

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Policies and Regulations

Patent Appeals to be Added to the Jurisdiction of the IP Division of the Supreme People' s Court

The Decision on Several Issues Concerning Judicial Procedures for Patent and Other Intellectual Property Cases (hereinafter referred to as the Decision) will take effect on January 1, 2019. Its primary subject matter is appeals of cases involving invention patents and utility models. According to the Decision, a party that is dissatisfied with the first instance judgment or ruling from an Intermediate People' s Court can appeal the case to the IP Division of the Supreme People' s Court rather than to a Higher People' s Court for trial; likewise, a party not satisfied with the first instance judgment or ruling from an Intellectual Property Court in a patent case can appeal the case to the IP division of the Supreme People' s Court for trial. (Source: Supreme People' s Court)

Regulations on Functional Configuration of CNIPA Come into Force

The website of the State Council recently published the Regulations on the Functional Configuration, Internal Institutions and staff establishment of CNIPA (China National Intellectual Property Administration, formerly known as the State Intellectual Property Office), which stipulates that CNIPA is a national bureau under the administration of State Administration For Market Regulation and is at the sub-ministerial level. The Regulations make it clear that the main responsibilities of CNIPA are:

(2) Protecting intellectual property rights. Formulate and organize the implementation of intellectual property rights systems for strict protection of trademarks, patents, geographical indications of origin and layout design of integrated circuits, etc. Organize the drafting of relevant laws and regulations, formulate departmental rules and regulations, and supervise the implementation. Conduct researches on policies of intellectual property protection, management and service that encourage innovation in new fields, new formats and new modes of business. Study and put forward the construction scheme of intellectual property protection system and organize its implementation so as to promote the construction of IP protection system. Guide the administrative enforcement work of trademarks and patents, and guide local intellectual property dispute resolution, enforcement assistance and dispute mediation.

(4) Responsible for the examination, registration and administrative adjudication of intellectual property rights. Implement trademark registration, patent examination and IC layout design registration. Responsible for administrative adjudication for the re-examination and invalidation of trademark, patent, IC layout design, etc. Formulate a unified identification system for geographical indications of origin and organize its implementation.

In addition, CNIPA shall have the following internal institutions: Office, Department of Treaties and Laws, Department of Strategic Planning, Department of Intellectual Property Protection, Department of Promotion for Intellectual Property Exploitation, Department of Public Service, Department of International Cooperation (Hong Kong, Macao and Taiwan Office), Personnel Department, etc. The regulations have come into force on August 1, 2018.

(Source: The official website of the State Council of PRC)

Policies and Regulations

PRC E-commerce Law Specifies E-commerce Operator's IP Protection Obligations

The E-commerce Law of the People's Republic of China (hereinafter referred to as "the E-commerce Law") was recently adopted at the Fifth Session of the Standing Committee of the 13th National People's Congress and is scheduled to go into effect on January 1, 2019. IP-related provisions in the E-commerce Law include the requirement that an operator of e-commerce platforms establish rules for the protection of intellectual property rights and strengthen cooperation with intellectual property rights owners so as to protect intellectual property rights in accordance with the law. (Source: Intellectual property industry sources)

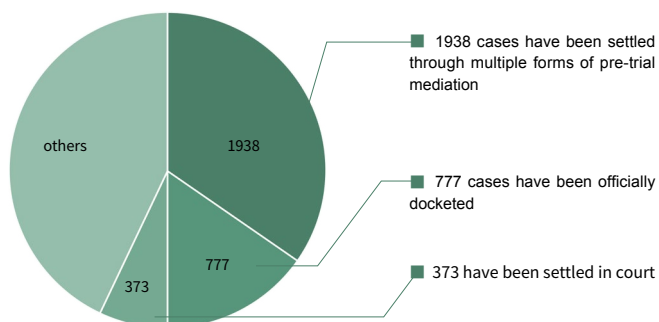
Intellectual Property

Beijing Internet Court Releases Case Statistics

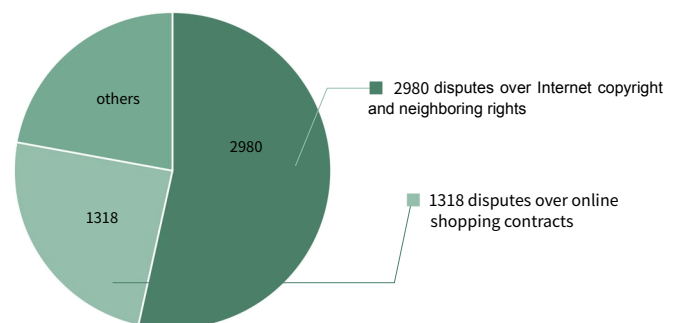
As of October 31:

Total access to the electronic litigation platform of the Beijing Internet Court	3.8135 million persons/times
Total number of registered users	2,880
Successful interception of security attacks	About 20,000 incidents

5497 Filed cases



Types of filed cases



(Source: Intellectual property industry sources.)

Trademark

Trademark Office Says “No” to Bad Faith Applications by Rejecting 16,000 Applications!

The Trademark Office has successively rejected over 16,000 applications for trademark registration under Article 4 of the Trademark Law, marking another swift and decisive combat operation against bad faith applications filed by applicants suspected of trademark hoarding.

(Source: Intellectual property industry sources.)

China’s First Local Trademark Office for Overseas Enforcement and Protection Established in Shanghai

The Shanghai Trademark Office for Overseas Enforcement and Protection was established and officially opened at the Shanghai Trademark Examination Cooperation Center on October 17th, 2018. This organization is China’s first local trademark institution with a mission involving overseas enforcement and protection.

As of June 2018, the number of valid registered trademarks in Shanghai exceeded one million. At present, the length of international trademark territorial extension reviews at the Shanghai Trademark Examination Cooperation Center is five to eight months less than the length stipulated in international treaties.

(Source: Shanghai Trademark Examination and Cooperation Center)

Patents

Shanghai Patent Funding Measures to Take Effect on January 1, 2019

The Shanghai Patent Funding Measures eliminated patent subsidies for utility models and designs, and they set a ceiling of RMB 2,500 for single subsidies of patented inventions as well as a maximum of RMB 1,500 for single renewal fee subsidization after payment of the third-year renewal fee.

Subsidization of international patents will increase tenfold. Inventions patented under the PCT and the Paris Convention will receive up to RMB 50,000 and RMB 40,000, respectively, for each designated country or region, and each invention patent may support up to five countries or regions. Additionally, the annual total amount of funding for international patents that may be received by an applicant has been raised from RMB 1 million to RMB 10 million.

(Source: Shanghai Intellectual Property Administration)