

W&B Legal Newsletter

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Spotlights

THE LATEST FROM WATSON & BAND

Watson & Band Named to Inaugural List of "Shanghai Professional Service Organizations Facilitating Enterprises' Global Expansion"

Watson & Band Awarded "2023 Outstanding Trademark Agency" and Ranked Among Leading 600 in Trademark Service Capability

Watson & Band Case Selected Among Landmark Intellectual Property Cases by Shanghai Courts

Watson & Band Selected as a Designated Service Provider for Shanghai's 2024 Patent Navigation Project

THE LATEST LEGAL DEVELOPMENTS

CNIPA Seeks Comments on the Guidelines for Artificial Intelligence-related Invention Patent Application

SPC and SPP Issue New Interpretation on Criminal Liability for Refusal to Execute Judgments or Rulings

INTELLECTUAL PROPERTY

CNIPA Revises Patent Application Request Forms and Electronic Filing Data Standards

MONOPOLY AND COMPETITION

SAMR Issues Anti-monopoly Guidelines on Standard Essential Patents

INTRODUCTION

Watson & Band has flourished into a full-service law firm with more than 400 pro-fessionals around China. We provide the highest quality services for our clients and enjoy a nationwide reputation as one of the most prominent law firms in China. This excellence and breadth has made us the firm of choice for many world's leading companies and financial institutions as they seek sophisticated legal service. Based on its commitment of quality service, Watson & Band has retained a team of professionals to provide diversified service to its clients, which has won it the honor of China's Best Law Firm and Top-tier IPR Team.

Watson & Band Law Offices

Established in 1995, Watson & Band is one of the oldest law firms in China that provide foreign-related legal services. Headquartered in Shanghai, Watson & Band maintains multiple branches or offices in Beijing, Hong Kong, Harbin, Lanzhou, Yantai, Guangzhou, Zhengzhou, Chengdu, Chicago and Tokyo.

For over decades our team members have collaborated to stay on top of IP and corporate issues, helping clients improve operations, reduce costs, limit risks, enforce rights and achieve common business goals. For these reasons, the firm and its professionals are consistently recognized in client and peer-reviewed industry awards and rankings as being among the best.

These superb services derive from a spirit of dedication that has brought Watson & Band the honor of being listed among "China's Best Law Firms". In past years our firm has received numerous awards from third-party ranking agencies such as "Top 10 IP Law Firm", "Recommended Law Firm". "China's Most Dynamic Law Firm" and "Premier IP Law Firm". Watson & Band Law Offices has also been named a "Key Shanghai Enterprise in Special Services Trades (Legal Services)" by the Shanghai Municipal Commission of Commerce and the Shanghai Judicial Bureau.

Watson & Band Intellectual Property Agent Ltd.

Headquartered in Shanghai, W&B Agent Ltd. operates branch offices in Beijing and Lanzhou. Our patent agency services cover various technical fields such as chemistry, biology, medicine, mechanics, electronics, communication, optics and physics, as well as design patent, IP searches, patent validity analysis, infringement analysis, requests for patent invalidation declaration, litigation and patent consultation, etc. We have established a patent agency service department re-sponsible for special clients. Agents from various technical divisions all have rich experience and are able to work with several languages.

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Disclaimer

- ◆ This Newsletter provides case brief only instead of formal legal opinion regarding any specific case.
- ◆ This Newsletter selects and summarizes official announcements, news and other public documents released by National Intellectual Property Administration of China (CNIPA), Trademark Office of CNIPA, National Copyright Administration of China and other official institutions.
- ◆ This Newsletter has cited the source of the aforementioned official announcements, news and other public documents.

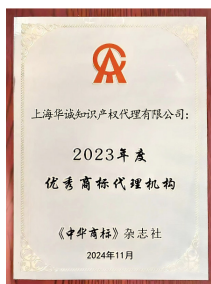
Watson & Band Named to Inaugural List of "Shanghai Professional Service Organizations Facilitating Enterprises' Global Expansion"

On November 26, 2024, the “High-Quality Development of the Yangtze River Delta Industrial Chain Forum” was successfully held in Beijing during the second China International Supply Chain Expo. At the announcement ceremony, the Councils for the Promotion of International Trade (CCPIT) from Shanghai, Jiangsu, Zhejiang, and Anhui jointly released the inaugural “List of Shanghai Professional Service Organizations Facilitating Enterprises’ Global Expansion,” among other significant achievements.

Watson & Band Law Offices and Watson & Band Intellectual Property Agency Ltd. were both included in this prestigious first list. This recognition acknowledges Watson & Band’s dedicated efforts, comprehensive services, and proven track record in assisting enterprises’ global expansion.



Watson & Band Awarded "2023 Outstanding Trademark Agency" and Ranked Among Leading 600 in Trademark Service Capability



The 14th China International Trademark Brand Festival was held on November 22, 2024, in the historic city of Xi'an. During the welcome reception, the organizing committee presented the “2023 Outstanding Trademark Agency” award, selected by the China Trademark magazine. Watson & Band Intellectual Property Agency Ltd. was once again recognized for its excellence, receiving this accolade and a commemorative plaque. Concurrently, the China Trademark magazine, in collaboration with the Chinese leading intellectual property data and information provider IPHOUSE, released the “2024 Top 600 Trademark Agency Service Capability Statistics,” in which Watson & Band Intellectual Property Agency Ltd. was once again proudly listed.

Watson & Band Case Selected Among Landmark Intellectual Property Cases by Shanghai Courts

On November 26, 2024, the Shanghai Third Intermediate People’s Court, which houses the specialized Shanghai Intellectual Property Court and the Shanghai Railway Transportation Intermediate Court, held a press conference to announce the state of intellectual property judicial protection over the past decade and release a selection of landmark cases.

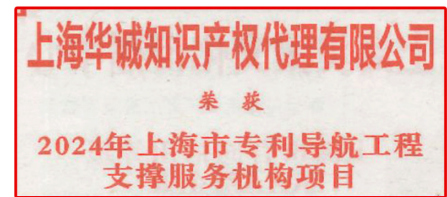
The press conference reported on 30 significant intellectual property cases, encompassing civil, administrative, and criminal matters. These cases cover a wide range of fields, including patents, trademarks, and copyrights, and involve multinational corporations and renowned brands. They not only provide guidance for the adjudication of similar cases but also demonstrate the courts’ firm commitment to strengthening intellectual property protection in China.

An unfair competition dispute, Giorgio Armani and GIORGIO ARMANI S.p.A. v. Yang and Zhang, represented by Watson & Band’s senior partner Yizhou Liu and his team, was selected among the “Landmark IPR Protection Cases over the Past Decade”.

Watson & Band Selected as a Designated Service Provider for Shanghai's 2024 Patent Navigation Project

In August 2024, the Shanghai Intellectual Property Administration issued the “Notice on Organizing the Application for Service Providers Supporting the 2024 Shanghai Patent Navigation Project” (Document No. [2024] 27). The notice outlined the Administration’s initiative to further implement the patent navigation project, a strategic approach that uses patent information to guide innovation and business decisions. The aim is to enhance the patent navigation service system and support the city’s patent commercialization efforts.

Following the stipulated procedures, Watson & Band Intellectual Property Agency Ltd. was first reviewed and recommended by the Xuhui District Intellectual Property Office and then submitted to the Shanghai Intellectual Property Administration for further evaluation. After a rigorous process involving expert review and a publication period, Watson & Band distinguished itself from numerous other applicants, becoming one of only two organizations selected as a “Designated Service Provider for the 2024 Shanghai Patent Navigation Project.”



Latest Legal Developments

CNIPA Seeks Comments on the Guidelines for Artificial Intelligence-related Invention Patent Application

On December 6, 2024, the China National Intellectual Property Administration (CNIPA) drafted the *Guidelines for Artificial Intelligence-related Invention Patent Applications (Draft for Comment)* (the “Draft”) for public consultation. The CNIPA is seeking comments from all sectors of society until December 13, 2024.

The *Draft* primarily addresses: (1) common types of AI-related patent applications and relevant legal issues; (2) identification of inventorship; (3) standards for the subject matter of inventions; (4) requirements for sufficient disclosure in the patent specification; (5) considerations for inventiveness; and (6) ethical issues in AI-related patent applications. The *Draft* categorizes the common application types into four groups: patents related to AI algorithms or models themselves; patents related to functionalities or applications in specific fields based on AI algorithms or models; patents involving inventions made with AI assistance; and patents involving inventions generated by AI. Building upon this categorization, the *Draft* addresses the key concerns of innovation stakeholders and outlines five major legal issues prevalent in the field of AI.

(Source: China National Intellectual Property Administration)



SPC and SPP Issue New Interpretation on Criminal Liability for Refusal to Execute Judgments or Rulings

On November 18, the Supreme People’s Court (SPC) and the Supreme People’s Procuratorate (SPP) jointly issued the *Interpretation on Several Issues Concerning the Application of Law in the Handling of Criminal Cases Involving Refusal to Execute Judgments or Rulings* (the “Interpretation”), which will take effect on December 1, 2024.

Comprising 16 articles, the *Interpretation* addresses the following key points: (1) specifying situations where individuals “have the ability to execute a judgment or ruling but refuse to do so, which involves serious circumstances;” (2) clarifying what constitutes “particularly serious circumstances;” (3) stipulating that the perpetrator who conceals or transfers assets before a judgment or ruling takes effect may be convicted of the crime of refusing to execute judgments or rulings; (4) establishing that a third party who assists in concealing or transferring assets may face criminal liability as an accomplice; (5) specifying circumstances for imposing heavier or lighter penalties;

and (6) detailing procedures for recovering illegal proceeds and mitigating losses. Notably, the *Interpretation* provides that if a person, after the commencement of legal proceedings but before a judgment or ruling takes effect, engages in acts such as concealing or transferring assets to evade enforcement obligations, and such acts are confirmed after the judgment or ruling becomes effective, they may be deemed as having the ability to execute but refusing to do so, and if the circumstances are serious, the person may be held criminally liable for the crime of refusing to execute judgments or rulings.

(Source: Supreme People’s Court)

NPC Standing Committee Seeks Comments on Four Draft Laws Including the Arbitration Law (Draft Revision)

On November 11, the 12th Session of the Standing Committee of the 14th National People's Congress (NPC) deliberated four draft laws, including the *Arbitration Law of the People's Republic of China (Draft Revision)* (the “Draft”), the *Maritime Law of the People's Republic of China (Draft Revision)*, and the *Law of the People's Republic of China on Popularization of Science and Technology (Draft Revision)*. The full text of these draft laws has been released to solicit public opinions for a 30-day term.

The *Draft* introduces significant proposed changes, primarily focusing on : re-affirming the Party's leadership in arbitration work; improving the system for foreign-related arbitration by expanding its scope, introducing a “special arbitration” mechanism, establishing a “seat of arbitration” system, and supporting arbitration institutions in both adopting international best practices and expanding their global presence; enhancing the credibility of arbitration, with the efforts to improve internal governance and management rules of arbitration institutions, increase the transparency of arbitration institutions and arbitrators, broaden the channels for appointing arbitrators, clarify the responsibilities in the judicial and administrative work, and prevent fraudulent arbitration proceedings; and promoting arbitration practices with Chinese characteristics aligned with international standards, clarifying the legal validity of online arbitration, shortening the time limit for applications to set aside arbitral awards, and fully respecting the principle of party autonomy.

(Source: www.npc.gov.cn)

China's Top Legislature Passes Six Laws, Including the Anti-Money Laundering Law

On November 8, at the 12th Session of the Standing Committee of the 14th National People's Congress (NPC), Chinese lawmakers deliberated and passed six laws, including the *Anti-Money Laundering Law of the People's Republic of China (Revised in 2024)* (the “Anti-Money Laundering Law”), the *Preschool Education Law of the People's Republic of China*, the *Law of the People's Republic of China on the Protection of Cultural Relics (Revised in 2024)*, the *Mineral Resources Law of the People's Republic of China (Revised in 2024)*, the *Energy Law of the People's Republic of China*, and the *Decision on Amending the Law on Supervision by the Standing Committees of the People's Congresses at All Levels*. The *Anti-Money Laundering Law* will take effect on January 1, 2025.

The *Anti-Money Laundering Law* consists of seven chapters and 65 articles, covering general provisions, anti-money laundering (AML) supervision and regulation, AML obligations, AML investigations, international cooperation on AML, legal liability, and supplementary provisions. This law refines and supplements relevant systems, focusing on clarifying the scope of its application. It adheres to the overall national security outlook, which, in this context, emphasizes the prevention of money laundering activities that could threaten China's economic stability or national interests. The law seeks to balance development and security to safeguard national interests and the legitimate rights and interests of Chinese citizens and legal persons. The law states that AML efforts shall be carried out in accordance with the law, ensuring that the measures taken are proportionate to the money laundering risks, safeguarding normal financial services and fund flows, while protecting the legitimate rights and interests of entities and individuals.

(Source: www.npc.gov.cn)

CNIPA Revises Patent Application Request Forms and Electronic Filing Data Standards

On November 21, China National Intellectual Property Administration (CNIPA) issued the *Circular on the Release of Revised Versions of Patent Application Request Forms and Electronic Application Data Standards* (the “Circular”), with relevant revisions set to take effect on January 10, 2025.

The revisions in the *Circular* affect four request forms used for paper-based patent filings, as well as the data standards for electronic patent application request forms and the corresponding batch interfaces for electronic applications. Specifically, the revised paper application request forms include the *Statement of Opinions*, *Statement of Opinions (Regarding Administrative Reconsideration)*, *Request Form for Participation in the Inter-Agency Expedited Examination Cooperation Program*, and *Request Supplement for the Inter-Agency Expedited Examination Cooperation Program*. The corresponding form codes are 100012, 101103, 110402, and 110403. Once the revisions take effect, the previous versions of these forms, along with the old electronic application data standards and batch interfaces, will no longer be valid.



(Source: China National Intellectual Property Administration)

SAMR Issues Anti-monopoly Guidelines on Standard Essential Patents

On November 11, the State Administration for Market Regulation (SAMR) issued the *Anti-monopoly Guidelines on Standard Essential Patents* (the “*Guidelines*”), effective on the date of issuance.

The *Guidelines* primarily address the following issues: information disclosure, licensing commitments and good faith negotiations related to standard essential patents (SEPs); monopoly agreements involving SEPs; abuse of dominance related to SEPs; and concentrations of undertakings related to SEPs. The *Guidelines* require undertakings to fulfill compliance obligations, such as information disclosure, from the perspectives of fair market competition and anti-monopoly regulatory enforcement, while clarifying how these compliance requirements relate to the identification of monopolistic practices. Additionally, the *Guidelines* outline scenarios involving potential monopoly agreements during the standard-setting and implementation process, as well as patent pools and other monopoly agreements involving SEPs.

(Source: State Administration for Market Regulation)

