

This is an ad-hoc newsletter to inform UK stakeholders of recent developments in the Chinese IP environment. The content is collected from publicly available sources, where information is often available in Chinese only. Please feel free to forward this newsletter, and contact [Leo.Zhuang@fcdo.gov.uk](mailto:Leo.Zhuang@fcdo.gov.uk) to be added to/removed from the distribution list. A pdf version is available on the [Embassy's IP webpage](#)



Intellectual  
Property  
Office



British Embassy  
Beijing



Department for  
International Trade

China IP Newsletter (April 2022)

## POLICY & GOVERNMENT

### **China aims to construct a national unified market**

On 10 April, the Communist Party of China (CPC) Central Committee and the State Council issued guidelines to establish a unified domestic market. The guidelines aim to break local protection and market fragmentation and unblock key sticking points that weigh on economic circulation. The guidelines stress that more efforts will be made to build a unified social credit system, property rights protection system, market access system, as well as boosting domestic productivity and resource allocation. In relation to intellectual property, the guidelines call for innovation in the IP litigation system, an improved cross-regional jurisdiction system of IP courts, and a more coordinated system on IP litigation and mediation/arbitration. [Read Guidelines for Accelerating the Construction of a National Unified Market in Chinese](#)

### **China plans to enact the first law on geographical indication in 2022**

On 26 April, the China State Administration for Market Regulation (SAMR) released the 2022 legislative work plan, with 10 of the 69 matters relating to intellectual property law. The IP-related items include laws, administrative regulations and departmental rules covering geographical indication, trade marks, patents, unfair competition matters. Specific legislative plans include formulating China's first Geographical Indication Law, revision of the Trade Mark Law and its implementing regulations, revision of the Anti-unfair Competition Law, measures for the registration and management of collective and certification trade marks, regulations for the supervision of trade mark agencies, several provisions for regulating patent application behaviours, and patent examination guidelines. [Read SAMR 2022 legislative work plan in Chinese](#)

### **The China National Intellectual Property Administration pledges to continuously crack down on bad faith trade mark registrations**

On 12 April, the China National Intellectual Property Administration (CNIPA) issued the Notice on Continuing to Severely Crack Down on Malicious Registration of Trade Marks, in which 10 typical illegal behaviours that violate the principle of good faith and disrupt the order of trade mark registration are highlighted. Regarding subsidies and other incentives for trade mark filings, CNIPA mandates that all regional IP offices should stop using trade mark filings or grants as key metrics for performance evaluation. Trade mark registration applications (including through the Madrid international registration system) shall not be supported in any form such as funding or rewards. Local IP offices may formulate their own timetables for the cancellation of subsidy and reward policies based on specific situations.

[Read CNIPA Notice on Continuing to Severely Crack Down on Malicious Registration of Trade marks in Chinese](#)

### **China issues new design patent fee schedule to accommodate Hague System**

The new Patent Law, which came into effect on 1 June 2021, stipulates that the term of protection for design patents is extended from the original 10 years to 15 years. On 30 March, the National Development and Reform Commission (NDRC) and the Ministry of Finance announced that the annuity fees for design patents for the 11th to 15th years would be RMB 3,000 (~£362) per year, effective from 5 May 2022. For international design applications designating China for protection, the annual individual designation fee is set to be RMB 4,100 (~£496) for the first phase (1-5 years), RMB 7,600 (~£919) for the second phase (6-10 years), and RMB 15,000 (~£1,814) for the third phase (11-15 years). [Read NDRC Notice on design patent annuity in Chinese](#)

### **Beijing announces local IP protection regulation**

On 14 April, the Beijing municipal government passed the Beijing Intellectual Property Rights Protection Regulation during the city's legislative session, which will come into effect on 1 July 2022. According to the regulation, city authorities should support IP protection in strategic emerging industries, such as new materials, new energy, and aerospace. These industries will enjoy accelerated examination of their IP registration. Beijing will also support enterprises, universities, and research institutions to explore IP management and protection in the fields of mobile internet, big data, artificial intelligence, and other new technologies and new types of business. The regulation sets the responsibility for protecting IP upon internet service providers, requiring them to enact protocols to prevent and address IP infringement. It also highlights penalties for malicious trade mark registrations and trade mark infringement. [Read Beijing Intellectual Property Rights Protection Regulation in Chinese](#)

## **JUDICIAL UPDATES**

### **China's top court announces jurisdiction rule of first instance IP cases**

On 21 April, China's Supreme People's Court (SPC) announced the updated jurisdictional rules for first instance IP civil and administrative cases. From 1 May, computer software cases, previously mainly heard as copyright civil disputes at lower courts, will begin to be heard by IP courts and intermediate people's courts in the first instance. Design patents, previously only heard by intermediate people's courts, may now be delegated to lower courts. Other cases that require strong technical expertise such as invention patents, utility model patents, new varieties of plants, layout designs of integrated circuit, technology secrets and monopoly disputes remain under the jurisdiction of IP courts and intermediate people's courts in the first instance. Other types of IP cases not specified in the provisions shall be heard by primary people's courts in the first instance. These cases include, but are not limited to, trade mark and copyright infringement, geographical indications, domain name disputes, and unfair competition etc. [Read SPC Several Provisions on Jurisdiction of Intellectual Property Cases of First Instance in Chinese](#)

### **Beijing High Court issues guidelines on the application of punitive damages in IP civil cases**

To deter intentional IP infringement and standardise the application of punitive damages, on 25 April, the Beijing High Court issued guidelines on the application of punitive damages in civil IP cases. The guidelines detailed the general principles, legal requirements, calculations and procedural matters for applying punitive damages. For instance, punitive damages will only be applied subject to the claims of right holders. Claims for punitive damages must specify the base amount, the calculation methods, the multiple to be applied as well as the total amount of the damage, and furnish supporting evidence. If the dispute over damages has been settled through a prior arbitral award, the right holder shall generally not bring a lawsuit claiming punitive damages for the same infringement, unless the said award has been revoked or ruled as unenforceable in accordance with relevant laws. [Read Beijing High Court guidelines for the application of punitive damages in Chinese](#)

## **China's top prosecutor office and CNIPA establish communication mechanism for related IP cases**

On 25 April, the Supreme People's Procuratorate (SPP) and CNIPA jointly published the Opinions on Strengthening Coordinated IP Protection. According to the Opinions, a regularised communication mechanism will be established between the two bodies to enable two-way sharing of case leads and reporting on the progress of related criminal and administrative cases. Local IP departments and prosecutors' offices at all levels will have access to each other's expert consultant and technical investigator database. IP departments should provide information on the status of IP rights to prosecutors if requested and likewise, prosecutors' offices should respond to queries from IP departments in respect of prosecution thresholds, the fixation and preservation of evidence etc. [Read SPP and CNIPA Opinions on Strengthening Coordinated IP Protection in Chinese](#)

## **INDUSTRY NEWS**

### **China ranks as the 6<sup>th</sup> top music market in 2021**

On 22 March, the International Federation of the Phonographic Industry (IFPI) released the Global Music Report 2022 which shows that the global recorded music market grew by 18.5% in 2021. The revenue growth mainly comes from streaming, physical formats, performance rights and synchronisation. China ranked as the 6<sup>th</sup> largest music market in 2021, coming after US, Japan, UK, Germany, and France. Global revenue from performance rights showed a recovery from the pandemic-impacted decline of 2020 and grew by 4.0% in 2021. In order to enable effective licensing and protect creators' rights, IFPI's report calls for stronger measures from governments to block access to infringing services. Governments should also require that where online hosting providers benefit from liability privileges (also known as 'safe harbours') they adopt and adhere to 'notice and stay-down' measures to keep infringing music off their services. [Read IFPI Global Music Report 2022 in English](#)

## **CASE**

### **Beijing IP Court concluded China's first drug patent linkage litigation case**

China recently revealed the verdict of the first drug patent linkage litigation case in China since the implementation of the patent linkage system through the new Patent Law, heard by Beijing IP Court. In this case, the plaintiff, Chugai Pharmaceutical, a subsidiary of Roche, and the marketing authorisation holder of marketed patent drug "Eldecalsitol Soft Capsules", initiated a litigation against Haihe Pharma after discovering that the defendant had applied to the National Medical Products Administration (NMPA) for the marketing approval of a generic drug with the same name on the basis that it does not fall within the scope of the protected patent (Cat 4.2 declaration). At trial, the court held that the generic drug in this case did not fall within the protective scope of the plaintiff's patent right, and ruled to dismiss the plaintiff's litigation claims. The Beijing IP Court issued the decision within the 9-month stay set by the NMPA. Meanwhile, according to an announcement on 25 April, the CNIPA has concluded the first three administrative patent linkage cases with an average review period of 6 months. [Read media coverage of China's first patent linkage litigation in Chinese](#)

### **China's Supreme People's Court releases the 'Top 10 IP Cases of 2021'**

On 21 April, the SPC released the Top 10 IP Cases in Chinese Courts in 2021. The cases cover trade mark infringement, unfair competition, trade secret misappropriation, antitrust, new plant variety infringement, invention patent infringement, and copyright infringement. Of particular note was the US baby formula brand Wyeth's win in a trade mark infringement case that resulted in the award of significant punitive damages, and the trade secret misappropriation case involving vanillin, a synthetic food flavouring, that led to the award of RMB 159 million (~£19.23m), one of the highest intellectual property damages awards in China. China also simultaneously released a list of 50 typical IP cases in Chinese Courts in 2021. [Read SPC Top 10 IP Cases in Chinese](#)

## **CNIPA publishes more administrative enforcement guiding cases**

On 31 March, the CNIPA released the second batch of administrative enforcement guiding cases as per Provisions Concerning Case Guidance on Intellectual Property Administrative Enforcement issued by CNIPA on 24 April 2019. The Provisions provide a new approach to understanding the rules for the protection of intellectual property rights in China. So far, CNIPA has issued eight guiding cases in terms of trade marks, patents, and integrated circuit layout designs. The guiding cases include 3 cases covering patent infringement, trade mark infringement and design patent infringement. Each case contains key points of the case, basic facts of the case, the penalty decision, and guiding significance. [Read CNIPA 2<sup>nd</sup> batch administrative enforcement guiding cases in Chinese](#)

## **STATISTICS**

### **On 24 April, CNIPA held a press conference reporting on China's IP development in 2021.**

#### **Highlights from the press conference include:**

- In 2021, 482,000 maliciously filed trade marks were identified and rejected in the examination process, of which:
  - 60,400 maliciously hoarded trade marks were rejected ex officio, and
  - 1,628 maliciously filed trade marks that harmed social and public interests were rejected.
- In the trade mark opposition review process:
  - a total of 30,000 malicious filed trade marks were dismissed.
  - 1,729 trade marks were declared invalid ex officio, more than 5 times the previous 10 years added together.
- On patents:
  - a total of 696,000 invention patents were granted throughout 2021, and the number of high-value invention patents per 10,000 population reached 7.5, an increase of 1.2 over the previous year.
  - the number of international patent applications submitted by Chinese applicants through the Patent Cooperation Treaty (PCT) reached 69,500, ranking first in the world for the third consecutive year.
- CNIPA also reported the number of IP cases in courts, number of counterfeiting crimes and the value of import and export volume of IP royalties. [Read transcript of CNIPA press conference in Chinese](#)

### **On 21 April, the SPC released a report on the judicial protection of intellectual property rights in Chinese courts 2021. Highlights from the report include:**

- In 2021, the SPC accepted 4,243 IP cases and concluded 3,557, up by 22.28% and 9.11% respectively on a year-on-year basis.
- Local people's courts at all levels accepted 550,263 cases in the first instance and concluded 515,861, up by 24.12% and 16.52% respectively from 2020. Among them, 124,716 trade mark cases were accepted, up by 59.62%, 4,015 technology contract cases, up by 22.52%, 8,419 competition-related cases, up by 78.26%, and 21,006 other civil disputes over IPRs with a year-on-year increase of 38.01%.
- The SPC accepted 2,852 administrative cases on IPRs and concluded 2,487, up by 49.4% and 43.34% compared with those of 2020. [Read SPC Report on judicial protection of IPR in Chinese](#)

### **On 25 April, the Shanghai High Court issued the White Paper on Judicial Protection of IP by Shanghai Courts in 2021. Highlights include:**

- The total number of IP cases continued to increase. In 2021, Shanghai courts accepted a total of 53,279 IP cases and concluded 49,100, up 32.49% and 30.88% respectively from last year.
- A total of 52,110 first-instance IP cases were accepted and 48,106 concluded, representing a year-over-year growth of 32.39% and 31.11% respectively. Among them, 51,122 of the cases accepted and 47,035 of the cases concluded were civil IP cases, up 31.83% and 29.92% respectively from last year.

- 979 of the IP cases accepted and 1,064 concluded were criminal cases, up 51.55% and 93.10%.
- The numbers of first instance cases concerning trade mark disputes, patent disputes, and unfair competition disputes increased significantly, whilst the growth of the number of cases related to copyright disputes and franchise contracts slowed down. [Read bilingual Report on Judicial Protection of Intellectual Property Rights by Shanghai Courts in 2021](#)

**On 24 April, the Guangzhou IP Court reported statistics of IP trials in 2021. Highlights include:**

- In 2021, the trial quality and efficiency of the Guangzhou IP Court improved significantly, with 15,244 new cases received, 14,297 cases concluded, and a rate of 530 cases concluded per judge, representing a year-on-year increase of 10.95%, 17.51%, and 4.5% respectively, all of which were record highs.
- 90.13% of cases concluded were not appealed, an increase of 7.09 percentage points year-on-year, and the overturn rate of first instance verdicts was 2.88%.
- 1,988 cases were resolved through pre-litigation mediation, an increase of 97.81% year-on-year, with a successful mediation rate of 36.15%. [Read Guangzhou IP Court Whitepaper in Chinese](#)

**On 24 April, the General Administration of Customs (GACC) released key statistics of customs IP protection in 2021:**

- In 2021, customs authorities across China seized 79,200 batches and 71.8 million pieces of suspected infringing import and export goods. 89% of all interceptions were export goods. The infringing goods seized mainly related to trade mark rights infringement, accounting for 94.7% of all seizures. However, the enforcement of patents, copyrights, and exclusive rights of Olympic emblems is on the rise, with combined seizure of 3.756 million articles (5.23% of total seizures).
- Customs nationwide seized 2,282 batches of suspected infringing goods in the freight channel. Among them, 94.9% were ex officio actions and 5.1% were intercepted upon notification from right owners.
- In 2021, the top 3 categories of infringing goods intercepted at the border were electronic appliances, tobacco products and apparel.
- In 2021, the GACC received 20,133 applications for customs IP right recordal, with 17,667 applications examined and approved. 41.6% of recordal applications were filed by foreign right holders. [Read GACC report on customs IP protection in Chinese](#)

If you would like any further information on any of the above matters or to discuss Embassy support for your company in China please contact Leo Zhuang ([Leo.Zhuang@fcdo.gov.uk](mailto:Leo.Zhuang@fcdo.gov.uk)).