

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 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
Business & Trade

China IP Newsletter (April 2023)

POLICY & GOVERNMENT

China announces annual tasks for promoting high-quality development of IP

On 29 March, the China National Intellectual Property Administration (CNIPA) issued the annual guidelines for promoting high-quality IP development. The Guidelines envisions that, by the end of 2023, the invention patent examination cycle will be reduced from 16.5 months to 16 months, while the general timeframe for trade mark registration will stay stable at 7 months. On legislation, the CNIPA will advance the revision of the Implementing Rules of the Patent Law, produce a new edition of the Patent Examination Guidelines, and push forward the amendment of Trade Mark Law. Other tasks include exploring the construction of a data IP protection and registration system; accelerating the building of a national IP protection information platform; strengthening multilateral cooperation with ASEAN, Central Asia, and other neighbouring regions; and improving the review system for transfer of IP rights to foreign parties. [Read CNIPA annual guidelines in English](#)

CNIPA issues measures to regulate patent agencies and attorneys through credit evaluation

Following the trial implementation of grading patent agencies and attorneys in four pilot provinces in January 2022, on 11 April the CNIPA issued the Administrative Measures for the Patent Agency Credit Evaluation which apply to all provinces. According to the Measures, credit ratings of patent agencies and patent attorneys are divided into Grades "A", "B", "C", and "D" in descending order, and the evaluation is based on a score. The full score is 100 points, with deductions based on negative information, which includes irregular operation or practice, abnormal operation of the agency, administrative or criminal punishment, and penalties given by industry, etc. The Measures further clarify that, patent agencies and patent attorneys with Grade D will be subject to classified management under key supervision, and will face inspections more frequently and statutory supervision more strictly. [Read CNIPA measures for credit evaluation of patent agencies in Chinese](#)

More clarity on requesting accelerated examination for post-grant services

On 31 March, the China Trade Mark Office (CTMO) issued guidance for requesting accelerated examination for post-grant services, such as requests for renewal, assignment, modification, licensing recordation, annulment, correction, and reissuance of certificate. The guidance specifies nine circumstances in which applicants are eligible for accelerated examination. For instance, there are hasty needs to get companies publicly listed, pledge for financing, record at the customs, and investigate an infringement claim. In addition, the request can be made if the trade mark is needed for administrative procedures, civil litigation, administrative licensing/recordation, and major commercial activities such as bidding and product launch in supermarket or e-commerce platforms.

The guidance however does not apply to the pre-grant processes, i.e. substantive examination and opposition of trade mark application. [Read CTMO guidance for requesting accelerated examination in Chinese](#)

Crack down on IP agency misconduct through “Blue Sky” Rectification Campaign

On 10 April, the CNIPA issued the Notice on Further Intensifying the "Blue Sky" Special Rectification Action for the IP agency industry. On trade marks, CNIPA will focus on bad-faith pre-emptive registrations, hoarding popular words as trade marks, trade marks with significant adverse social impacts, collusion with personnel engaged in trade mark registration and management, engaging in illegal activities in cross-border e-commerce and online trade mark agency services, impersonating state authorities or their staff members to fabricate or alter legal documents, seals, or signatures, and accepting commissions from both parties with conflicting interests in the same trade mark agency. On patent, the CNIPA continues to notify all regions of abnormal patent applications and agency information, and strengthen positive guidance for further standardising patent agency behaviour. [Read CNIPA Blue Sky Campaign 2023 in Chinese](#)

China proposes rules for generative artificial intelligence services

On 11 April, the Cyberspace Administration of China (CAC) released the Measures for the Management of Generative Artificial Intelligence (AI) Services, regulating research, development and utilisation of generative artificial intelligence (AI) products to provide services to the public within the territory of the People’s Republic of China. The CAC defines generative AI as “technologies that generate text, pictures, sounds, videos, codes, and other content based on algorithms, models, and rules.” Regarding IP, the measures state that the provision of generative AI products or services shall “respect intellectual property rights and business ethics, and shall not use advantages such as algorithms, data, and platforms to implement unfair competition.” Further, the pre-training and optimised training data used for generative AI products should not contain content that infringes IP rights. [Read draft Measures for the Management of Generative Artificial Intelligence \(AI\) in Chinese](#)

JUDICIAL UPDATES

China’s top-level IP Tribunal issues annual report for 2022

On 30 March, the IP Tribunal of the Supreme People’s Court (SPC) released its annual report, summarising key statistics and characteristics of IP cases as well as new practices carried out in 2022. It shows that while the judges’ caseload continued to grow in 2022, with a year-on-year increase of 18%, the number of newly accepted cases and closed cases remain roughly unchanged. The average time needed for judges to close cases increased from 134 calendar days in 2021 to 165.2 days last year. The court attributed this lengthening to an increased caseload and trial difficulties caused by Covid restrictions. Further, infringement cases increased for the fourth consecutive year, growing by 15% compared to 2021, and second-instance administrative cases took a downward turn for the first time in recent years, with a dramatic decline of 31%. [Read SPC IP Tribunal annual report 2022 in Chinese](#) and [in English](#)

CASE

Applying for drug volume-based procurement constitutes an ‘offer to sell’

In a recent judgement rendered by the IP Tribunal of SPC involving patent infringement disputes between two Chinese drug companies, the court ruled that the act of applying for central procurement constitutes ‘offer to sell’ and thus infringes the other party’s patent right. The court explained that ‘offer to sell’ is an independent form of infringement expressly set out by the Patent Law, separate from other infringing acts such as selling and licensing. In this case, the act of a generic drug enterprise submitting documents to the local drug centralised procurement department is an expression of intent to prepare for the subsequent commercialisation and supply its generic drug to an unspecified party. Whether the application is approved or not does not materially affect the aforementioned conclusion. [Read media analysis of the case in Chinese](#)

STATISTICS

China records 1.8 million computer software copyright registrations in 2022

On 17 April, the China Copyright Protection Centre released the Analysis Report on the Registration of Computer Software Copyrights in 2022, which shows 1.835 million computer software copyrights were registered nationwide in 2022, with the number of registrations remaining above 1 million for the fifth consecutive year. Compared with 2012, the annual number of registered software has increased by 12 times. In 2022, the number of software registrations for AI and big data in China both exceeded 35,000. The total number of APP software and mini-program registered nationwide in 2022 exceeded 250,000, accounting for approximately 14% of the total registered software, an increase of 9% compared to 2012. [Read media coverage in Chinese](#)

SPC releases statistics of IP litigation in 2022

In addition to the annual report of the SPC mentioned above which focuses on the work of the IP Tribunal, the SPC released a second report on 20 April entitled Status of Judicial Protection of Intellectual Property Rights in Chinese Courts (2022) that contains statistics of IP litigation throughout China's court system. Some highlights include:

First-instance IP cases

- In 2022, local people's courts at all levels newly accepted 438,480 civil IP cases of first instance and concluded 457,805, a year-on-year **decrease of 20.31%** and **11.25%**, respectively.
- However, the number of first-instance patent cases **increased by 23.25%** to 38,970 respectively from the previous year;
- First-instance trade mark cases **dropped by 9.82%** to 112,474 year-on-year;
- First-instance copyright cases **decreased by 29.07%** to 255,693; and
- First-instance technology contract cases **grew by 5.55%** to 4,238.

Second-instance IP cases

- In 2022, local courts newly accepted 46,524 civil IP cases of second instance, **down 5.22%** year-on-year, and concluded 46,563, **up 2.41%** on a year-on-year basis.

Criminal IP cases

- Criminal IP cases also dropped. Local courts accepted 5,336 criminal IP infringement cases of first instance and concluded 5,456, **down 14.98%** and **9.76%** respectively.
- In particular, 4,971 trade mark infringement criminal cases were newly accepted, and 5,099 were concluded, a year-on-year **drop of 15.3%** and **9.86%**, respectively;
- 304 copyright infringement criminal cases were newly accepted, and 302 were concluded, **down 8.71%** and **7.93%**. [Read SPC bilingual report Status of Judicial Protection of Intellectual Property Rights in Chinese Courts \(2022\)](#)

CNIPA, NCAC, and General Administration of Customs released IP statistics of 2022

On 24 April, the CNIPA and NCAC jointly held a press conference, reporting on the IP protection work done in 2022. On 25 April, the General Administration of Customs (GACC) published the IP enforcement work done by nationwide customs offices in 2022. Key IP statistics include:

Patent

- In 2022, **798,000** invention patents were granted. The number of high-value invention patents per 10,000 people reached 9.4.
- Chinese applicants submitted **70,000** Patent Cooperation Treaty (PCT) international patent applications and **2,558** design applications through the Hague system.
- The examination cycle for invention patents was reduced from 18.5 months to **16.5 months**.
- **9,106** licenses for the design of integrated circuits were issued.

Trade mark

- In 2022, the CNIPA approved the registration of **6,177,000** trade marks. Chinese applicants made 5,827 international trade mark applications through the Madrid System.
- In 2022, the CNIPA cracked down on a total of **372,000** malicious trade mark applications/registrations.
- CNIPA approved 5 new geographical indications products, and granted **514** new registrations of geographical indications as collective trade marks and certification trade marks.
- The average examination cycle for trade mark registration remain stable at **4 months**.

Copyright

- In 2022, the number of copyright works and computer software copyright registrations reached **4,517,000** and **1,835,000** respectively.

Administrative/Judicial Enforcement

- **10** new national IPR protection centres and rapid rights protection centres were established last year.
- In 2022, IP Administrations across the country handled **58,000** cases of administrative adjudication of patent infringement disputes, answered to **71,000** requests for IP protection assistance and coordinated the mediation for **88,000** cases.
- **3,378** infringement and piracy cases were investigated and handled. **846,000** piracy links were removed, and **3,029** large websites were under key monitoring for copyright infringement.
- In 2022, the prosecutors' offices prosecuted over **13,000** people for IP crimes and supervised the hearing of **937** cases of IP civil litigation. [Read full transcript of the press conference in Chinese](#)

Customs Enforcement

- In 2022, the customs offices across China took **64,600** actions to protect IP rights, with **60,900** batches (over **77million** items) of suspected infringing goods for import and export detained.
- Throughout the year, the GACC received **23,412** IP rights recordal requests and approved 21,356, of which **15,091** were filed by Chinese domestic rights holders.
- The majority of seized infringing goods were related to trade marks. **76,323,100** items were seized for trade mark infringement, accounting for **97.93%** of the total number of detained goods.
- Infringement investigations remained concentrated in the eastern coastal region, while enforcement efforts in the central and western regions and inland areas continued to increase.
- Enforcement efforts on cross-border e-commerce channels increased, with **21,000** batches and **4.023 million** items of infringing goods detained.

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).