

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
International Trade

China IP Newsletter (December 2022)

POLICY & GOVERNMENT

China issues opinions to increase cross-departmental cooperation on IP verification

On 29 November, the China National Intellectual Property Administration (CNIPA) issued the Opinions on Strengthening the Coordination of Intellectual Property Verification Work, calling for greater synergy between CNIPA, the Supreme People's Court (SPC), the Supreme People's Procuratorate (SPP), the Ministry of Public Security (MPS) and the State Administration for Market Regulation (SAMR). IP verification work shall be undertaken by designated experts who identify and judge technical issues related to the administrative and judicial IP protection. Their appraisals, once proved factual and in compliance with the legal procedures, will be taken as factual basis for cases. The Opinions ask the IP administration, judicial organs, the police, and the market regulators to establish a sound information sharing mechanism, in order to promote cross-sectoral and cross-regional information sharing. [Read CNIPA Opinions on Strengthening the Coordination of Intellectual Property Verification Work in Chinese](#)

New pilot locations selected for IP protection of data

On 30 November, CNIPA issued the notice on the identification of pilot areas for data IP work. Eight localities including Beijing, Shanghai, Jiangsu, Fujian, Shandong, Guangdong province and Shenzhen city are selected for implementing the pilot project which will run from November 2022 to December 2023. Each pilot area is required to create its own implementation plan, setting out the objectives, specific measures, timeline, milestones, partner entities, and earmarked funds. During the year-long trial period, the CNIPA will intensify supervision and guidance over the pilot areas, organise mid-term evaluations, and summarise and promote typical experiences and practices. [Read more on CNIPA's data IP pilot project in Chinese](#)

CNIPA provides guidelines for trade mark applicants to avoid conflicts with prior rights

On 7 December, the CNIPA published the Guidelines on How to Avoid Conflicts with Prior Rights in Application for Registration and Use of Trade marks. It points out that "prior rights" refer to the rights or interests that have been enjoyed and legally existed before the date of application for registration of a trade mark, including rights to trade marks, copyrights, design patent rights, name rights, portrait rights, geographical indications, influential goods or service names, packaging, decoration, and other legal prior rights and interests that should be protected. The protection of prior trade mark rights has been reflected in provisions of the Trade Mark Law, so "prior rights" in these guidelines do not include prior trade mark rights. [Read full text of the guidelines in Chinese](#)

CNIPA clarifies the use of Class 35 trade marks pertaining to sales promotion services

On 7 December, the CNIPA published the Guidelines on Application for Registration and Use of Class 35 Trade marks. Services in Class 35 include business management, operations, organisation, and administration of commercial or industrial companies, as well as advertising, marketing, and promotional services. Sales of goods is not considered as a service. The main purpose of services in Class 35 is to assist others in their business operations or management, in the management of others' business activities or business functions, and to provide others with advertising services to the public through various means of communication. The most important feature of services in Class 35 is that the relevant services are provided for others, rather than for the registrant's own business needs. For example, advertising related services means providing advertisement, production and dissemination for other's products or services, not including those for the trade mark registrant itself. [Read CNIPA Guidelines on Application for Registration and Use of Class 35 Trademarks in Chinese](#)

INTERNATIONAL

The EU-China dispute over anti-suit injunctions relating to SEP patents moves to next stage at WTO

On 7 December, the European Commission announced it had requested the formation of adjudicating panels at the World Trade Organization (WTO), after failing to resolve the dispute bilaterally over alleged Chinese restrictions on EU companies' rights to use foreign courts to protect their high-tech patents. The EU executive said the WTO panels would likely be formed in early 2023, noting that panel proceedings can last up to one and a half years and the decision can be appealed, further delaying resolution. This development follows the EU's legal challenge at the WTO against China's use of "anti-suit injunctions" (ASIs) to restrict EU holders from enforcing standard-essential patents (SEP) against Chinese companies in any non-Chinese court. China said it regrets EU's decision and will 'resolutely safeguard its rights and interests in accordance with WTO dispute resolution procedures'. [Read EU announcement of request for establishing a WTO panel in English](#)

JUDICIAL UPDATES

China to strengthen and regulate use of AI in judicial proceedings

On 8 December, the SPC issued the Opinions on Regulating and Strengthening the Applications of Artificial Intelligence in the Judicial Fields, which outlined the general principles, overall objectives, and scope of applying AI products and services for adjudication. It states that courts shall, by the year 2025, construct an improved functional system for the application of AI in the judicial field, to effectively alleviate the high administrative workload of judges. Specifically, AI can be used in evidence review, e-files classification and categorisation, case information crawling, automatic diversion of complex and simple cases, automatic recommendation of service addresses and methods, adjudication assistance for all causes of actions, AI-assisted legal documents generation and review etc. The Opinions affirmed the *supporting* role of AI in adjudication, stressing that AI shall not make judicial decision substituting for the judge in any case, regardless how advanced the AI technology becomes. [Read SPC's Opinions on regulating use of AI in judicial fields in Chinese](#)

INDUSTRY

Guidelines for cross-border e-commerce IP protection issued by industry association

On 7 December, the Beijing Trademark Association issued the Guidelines for the Protection of Intellectual Property Rights in Cross Border E-Commerce. The release of this document aims to improve the IP protection of Chinese businesses when exporting to overseas markets via e-commerce channels. The guidelines provide practical tips to exporters such as how to obtain professional help for registering IP rights, proactively monitor infringement in the exporting market, and becoming familiar with the IP system, trade policies and legal remedies in the exporting market. Similar to domestic e-commerce, the guidelines also suggest platforms should establish a well-rounded IP mechanism, including but not limited to data management, infringement reporting, and dispute resolution. Platforms should also conduct a preliminary review of the non-infringement counter-notice submitted by sellers.

[Read Guidelines for the Protection of Intellectual Property Rights in Cross border E-Commerce in Chinese](#)

CASE

Chinese academic database fined RMB 87.6 million by antitrust watchdog

On 26 December, the State Administration for Market Regulation (SAMR) stated that it has imposed a fine of RMB 87.6 million (~£10.58million) on China's leading academic database China National Knowledge Infrastructure (CNKI), a figure equal to 5% of its 2021 domestic sales, for abusing a "dominant market position". The country's regulator found that, through selling database services at unfairly high prices and linking exclusive cooperation agreements, the CNKI has hindered competition within China's academic database services market, infringed on users' legitimate rights and interests, and compromised the innovation and development of related markets and academic exchanges. It urged CNKI to correct its wrongdoings and make comprehensive reforms to its internal compliance structure, among other areas, to facilitate the industry's well-regulated, healthy and innovative development. [Read SAMR statement on fining CNKI in Chinese](#)

NetEase wins RMB 50 million in Minecraft infringement litigation

On 30 November, the Guangdong Higher People's Court awarded NetEase, a large Chinese game developer, RMB 50 million (~£6million) and an injunction in an unfair competition case against Shenzhen Mini Play Company involving 'Minecraft' and Mini Play's similar sandbox game 'Mini World'. NetEase has owned the exclusive right to operate Minecraft in China since 2016. The Guangdong High Court held that the overall screens of the two games constitute electronic works, i.e., 'audio-visual works' under the newly amended Copyright Law, but the similarity between the two lies in the design of the game elements rather than the screens of the games. Therefore, the court rejected NetEase's claim of copyright infringement. However, the court held that Mini World and Minecraft are highly similar in terms of gameplay rules, and there are many overlaps in the details of game elements that have exceeded the limit of reasonable reference, which constituted unfair competition. This is reportedly the highest damages award in China for game infringement. [Read media coverage of the NetEase case in Chinese](#)

STATISTICS

Beijing Internet Court reports statistics of online music copyright cases

On December 15, the Beijing Internet Court held a press conference reporting key achievements and key statistics in the field of online music dispute since its establishment in September 2018. Over the past four years, the Beijing Internet Court received 4,560 cases of online music copyright disputes and concluded 4,046 cases. There have been mainly four types of litigants: original right holders including lyricists, songwriters and sound recording producers, licensees authorised by lyricists, songwriters or sound recording producers, music copyright collective management organisations (CMO) such as Music Copyright Society of China (MCSC) and China Audio-Video Copyright Association (CAVCA), and inheritors and assignees of copyrighted works. Among them, cases involving licensees account for approximately 70% while cases involving CMOs take up less than 1.5%. Around 80% of cases were resolved through mediation or withdrawal. [Read more from Beijing Internet Court press conference 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).