

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 (July 2021)

POLICY & GOVERNMENT

China's patent linkage system is officially up and running

This month, Chinese government authorities and courts announced new measures to implement the patent linkage system, a key feature of the new Patent Law. They specified the rules for challenging the marketing authorisation of a patented drug both at the administrative and judicial levels.

1. Measures for the Implementation of Early Resolution Mechanisms for Drug Patent Disputes (Trial)
2. Administrative Adjudication Measures for Early Resolution Mechanisms for Drug Patent Disputes
3. Provisions of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Civil Cases Concerning Patent Disputes Related to Drugs Applied for Registration

The overall mechanism remains unchanged from the proposed draft released last year, which includes a 45-day window for patent holders to challenge a new generic applicant; a 9-month moratorium in new drug approval process; and a 12-month period of market exclusivity granted to the first successful generic challenger. Generic drug applicants must now notify any patent holder within ten days of submitting their declaration to the National Medical Products Administration (NMPA). This notification requirement reduces the burden for patent holders to closely monitor the new drug applications filed at the NMPA. Read more on the measures [here](#), [here](#) and [here](#).

China will publish a further ten types of basic IP data

To improve the accessibility of IP data by the public, starting from 15 July, the National Intellectual Property Administration (CNIPA) will add another 10 types of basic IP data to the Patent Data Service Pilot System. Thus data will be available for the public to access and download free of charge. The system, established in 2014, provides open access to the latest and archived patent data generated by the IP5 offices, with the view of promoting the latest developments of world-leading technologies to innovators. The newly added data will include

the publication and review case data related to the layout design of integrated circuit (IC layout) as well as the legal statuses of patents published by Japan Patent Office (JPO), Korean IP Office (KIPO), and European Patent Office (EPO). More [here](#) in Chinese.

China mulls to establish a unified intellectual property law

In response to a proposal made by a member of China's National People's Congress (NPC) calling for the creation of a 'unified intellectual property law', the CNIPA said in a statement issued on 15 July that it endorses the proposal and has conducted research on establishing a fundamental IP law since 2009. Against the backdrop of the enactment of China's Civil Code, the CNIPA thinks a centric IP law system is conducive to creating a consistent set of rules to be applied across all types of IP rights and reduces the duplication and overlapping of rules subsisting in the separate laws on individual right. Given that the administrative functions for multiple IP rights have combined after the government institutional reform in 2018, a unified IP law could be a natural next step. More [here](#) in Chinese.

CNIPA issues action plan to benefit enterprises with IP-backed financing

The CNIPA, China Banking and Insurance Regulatory Commission (CBIRC) and National Development and Reform Commission (NDRC) hopes to offers more funding options to 100 industrial parks and ten-thousand enterprises through IP-backed financing policies. The Plan proposes that, by the end of 2023, China will improve the accessibility of IP-backed financing services, whilst significantly increasing the implementation rate of pledged patents. The Plan also sets out measures for achieving the above goals, including through research and guidance, incentives, innovating evaluations and evaluation tools. More [here](#) in Chinese.

Typical cases of IP infringement at the border were announced by customs

On 19 July, China's General Administration of Customs (GACC) announced eleven typical cases of IP infringement where they were able to seize infringing goods. The cases included both domestic and foreign brands as well as products bearing Olympic marks. In one case, Ningbo Customs seized 53,300 lip glosses, 3,600 mascaras, 288 make up primers, 1,080 powder solutions and other infringing cosmetics under the trade marks of "HUDA BEAUTY", "L'OREAL", "Maybelline" and "DIOR." Though the package were labelled as "Plastic Brush", they were found to contain many branded cosmetics after being unpacked. At present, the Ningbo Customs has transferred the case to the public security department for further investigation. More [here](#) in Chinese.

BUSINESS SUPPORT

Free webinar on mitigating IP risks in China organised by UK IPO

The IPO China team hosted on 12-13 July the first two of a series of webinars designed to help advise UK businesses on the best way to protect their IP in China. The webinar covered the main IP risks of doing businesses in China, and how they affect exports, manufacturing, joint research and other projects. We also shared practical steps to mitigate IP risks, including IP registration, China contract best-practice, and structuring relationships with Chinese partners. A recording of the event can be accessed [here](#) after completing the registration. Stay tune for more sector-specific webinars in September and October!

CASE

Jaguar Land Rover wins unfair competition case against Chinese copycat carmaker Jiangling Motors

On 27 May, the Beijing Intellectual Property Court announced its second-instance decisions on the unfair competition and copyright infringement disputes between Jaguar Land Rover (JLR) and Jiangling Motor, bringing closure to years of legal battle over the exterior design of Range Rover Evoque by Land Rover and Landwind X7 by Jiangling. The Court supports JLR's unfair competition claim, confirming that the exterior design of a car may be protected as a commodity decoration with certain influence pursuant to Article 6 of China's Anti-unfair Competition Law. However, the Court dismissed JLR's copyright infringement claim, denying the Range Rover Evoque's exterior design qualifies as an artistic work. More [here](#) in Chinese.

STATISTICS

On 14 July, the CNIPA released the key statistics of IP administration and protection in the first half of the 2021 at the quarterly press conference. Below is a summary of the statistics:

Patent

- In H1 2021, China granted 339,000 invention patents, 1.32 million utility model patents and 393,000 design patents. Among the granted invention patents, 54,000 were filed by foreign applicants, an increase of 30% from the previous year. In particular, there was a 35% increase in patent grants by US applicants.
- The CNIPA received 333,000 PCT applications, 12.6% more than the H1 2020. More [here](#) in Chinese.

Trade mark

- 3.72 million trade marks were registered in H1 2021, making the total effective trade mark registration reach **33.5 million** as of June 2021, an increase of 22.4% compared with last year. 90,000 of trade marks that became registered in H1 2021 are from foreign applicants, up by 7.5%.
- As of June 2021, the average examination time for trade mark applications remain stable under 4 months.
- China intensified the crack down on bad faith trade mark registration. Since 2018, over 150,000 trade marks registered in bad faith or for hoarding have been rejected. More [here](#) 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).