

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  
Business & Trade

China IP Newsletter (July 2023)

## POLICY & GOVERNMENT

### **SAMR amends rules to regulate IP-related monopolistic behaviours**

On 29 June, China's State Administration for Market Regulation (SAMR) released the revised Provisions Prohibiting Abuse of Intellectual Property Rights to Exclude and Restrict Competition. It states that business operators with a dominant market position shall not: license or sell products that contain IP rights at unfairly high prices; refuse to allow other business operators to use the IP on reasonable terms without justified reasons; restrict and limit the transaction party to certain business entities without justified reasons; impose unreasonable transaction conditions such as requiring the counterparty of the transaction to exclusively grant back its improved technology, or require the counterparty to carry out cross-licensing without justified reason, or prohibit the counterparty from challenging the validity of its IP rights; use patent joint ventures/patent pools to engage in acts of eliminating or restricting competition. [Read SAMR revised provision in Chinese](#)

### **SAMR seeks comments on Anti-Monopoly Guide for Standard Essential Patents**

On 30 June, the SAMR released the draft Anti-monopoly Guidelines in the Field of Standard Essential Patents (SEP) for comment. The draft requires that patentees or patent applicants participating in standards formulation and revision shall fully disclose the patents in a timely manner and provide corresponding evidence at the same time. If the patentee fails to disclose the patent information in a timely manner or explicitly waives the patent right, but asserts the patent right against the standard implementer after the standard is promulgated, such an act could be deemed as excluding or restricting market competition. In the event that an SEP is assigned to another party, the assignee shall be bound by the commitment made by the former SEP holder to license the SEP on the basis of fair, reasonable and non-discriminatory (FRAND) terms. [Read SAMR Anti-Monopoly Guide for Standard Essential Patents in Chinese](#)

### **High courts from Beijing-Tianjin-Hebei region sign coordination agreement**

On 19 July, the high people's courts in Beijing, Tianjin, and Hebei provinces signed a framework agreement, pledging to cooperate further to better protect intellectual property rights, thereby helping to promote the coordinated development of the region. According to the agreement, courts from the three locations will collaborate on multiple aspects around IPR, including the improvement of the quality of trials, joint investigations, resource information sharing, IP awareness raising, promoting circuit trials, and nurturing judicial talent. [Read official announce of the signing in Chinese](#)

### **CNIPA to increase fees for the international phase of PCT applications**

On 25 June, the China National Intellectual Property Administration (CNIPA) issued a notice to increase fees for the international phase of PCT applications. According to the notice, international application documents of up to 30 pages will be charged RMB 10,350 (+7.59%), with 120 yuan added per exceeding page (+9.09%). Documents Submitted in PDF and XML formats can enjoy a reduction of 1,560 yuan (+7.59%) and 2,340 yuan (+7.83%), respectively. The commission charged by the International Bureau of WIPO increased to 1,560 yuan (+7.59 %). The new fee standard was implemented from 1 July 2023. [Read CNIPA's full notice to increase PCT fees in Chinese](#)

### **CNIPA revises template and guidance for patent assignment and license contracts**

Following the draft template and guidance for patent assignment and patent license contract published on 3 January, the CNIPA announced the finalised version on 27 June. The revised provisions are more concise and defined while providing additional content in certain clauses. The template contract for patent assignment encompasses 19 provisions, covering the delivery of technical material, provision of technical services and training, assignment fee and payment method, transition period, confidentiality, guarantee, technology import/export, invalidation and enforcement, breaches and damages, and dispute resolution etc. The patent license template has 18 provisions, which covers, in addition to the aforementioned areas, licensing model and scope, licensing acts, recordal of license contract, and provision and sharing of subsequent improvement. [Read CNIPA template contract for patent assignment and license in Chinese](#)

## **CASE**

### **First batch of patent linkage litigation involving British companies announced**

On 14 June, the Supreme People's Court (SPC) issued a final decision on three patent linkage disputes between AstraZeneca and Sichuan Guo Wei, which is said to be the first patent linkage case involving a British company. The cases are in relation to AstraZeneca's three patents for dapagliflozin (branded Forxiga), an innovative drug approved in China since 2017 for treatment of Type-II diabetes. The SPC sustained the first-instance decision in two of the cases, ruling in favour of AstraZeneca and finding the generic application by Sichuan Guowei to fall under the protection of AstraZeneca's registered patent. However, in the other case that involves a crystalline patent, while the SPC agrees with technical findings in the previous decision i.e. the generic falls within AZ's scope of protection, it withheld from delivering the ruling on the basis that a crystalline patent is not eligible for a 'patent linkage' trial in accordance with Chinese law. [Read more on AstraZeneca's patent linkage case in Chinese](#)

## **STATISTICS**

### **IP House analyses IP cases in Chinese courts 2009-2022**

On 11 July, the IP House, a Chinese IP legal data analytic company, released a report themed on the judicial protection of IP right in Chinese courts between 2009 and 2022. The report compiled data from the 14 editions of White Paper published by the SPC since 2010. Overall, from 2009 to 2021, the number of IP cases annually received by Chinese courts of first instance, second instance, and retrial increased by 15.7 times, rising from 38,489 cases in 2009 to a peak of 642,968 new cases in 2021. However, the number of new cases declined for the first time in 2022. Specifically,

#### *Civil IP cases*

- From 2009 to 2021, the number of first instance civil cases increased from 30,626 cases in 2009 to a peak of 550,263 cases in 2021, an increase of 3.7 times.
- Among them, between 2009 and 2021, copyright cases increased by 22.5 times and trade mark cases increased by 17.1 times. However, the number of copyright and trade mark cases both declined significantly in 2022, with a year-on-year decrease of 29.1% for copyright and 9.8% for trade mark cases.

- In comparison, the number of patent, technology contract, and competition cases grew consistently between 2009 and 2022, with the growth rate of patent cases in 2022 being 23.3%.

#### *Administrative IP cases*

- The number of administrative IP cases also saw a steady increase up until 2022, growing from 2,072 cases in 2009 to 20,634 cases in 2022, a nine-fold increase, though there was a significant reduction in growth rate in 2022.

#### *Criminal IP cases*

- Between 2009 and 2022, the number of criminal IP cases at first instance peaked at around 13,000 in 2012, followed by a slow decline. The number fluctuated in recent years with close to 6,000 criminal cases handled in 2022. [Read full report from IP House in Chinese](#)

### **CNIPA releases data of patent linkage administrative cases in past two years**

On 18 July, the CNIPA held a press conference to brief on IP statistics in the first half of 2023.

With respect to IP filings:

- A total of 433,000 invention patents and 1.104 million utility models were granted;
- 35,000 PCT international patent applications were filed;
- 33,000 patent re-examination cases were concluded, and 4,433 invalidation cases were concluded;
- Chinese applicants submitted a total of 957 international design applications through the Hague System;
- Compared with the first half of 2022, there was a 25% drop in utility model grants and 10% increase in invention patent grants. Design patent grants also dropped 10%;
- CNIPA cracked down on a total of 249,000 malicious registrations of trade marks.

With respect to patent linkage:

- In the past two years, CNIPA has received a total of 140 requests for administrative adjudication cases, and concluded 112 cases, involving more than 30 kinds of drugs and more than 50 specifications;
- A total of 25 original drug companies petitioned to file requests against 42 generic drug companies, among which the antineoplastic drug Neratinib Maleate involved the largest number of cases;
- The average time to conclude administrative case is about 166 days, with the quickest concluded in 35 days. [Read full transcript of the 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](mailto:Leo.Zhuang@fcdo.gov.uk)).