

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 (March 2022)

POLICY & GOVERNMENT

China's top court and prosecutor's office released reports during annual Two Sessions

On 5-11 March, China held the annual 'Two Sessions' of the National People's Congress (NPC), China's top legislature, and the Chinese People's Political Consultative Conference (CPPCC), which is a policy advisory body consisting of experts from Chinese society. China's Premier Li Keqiang presented the Government Work Report which underlines the key role IP protection plays in achieving many of China's strategic priorities such as innovation and improving business environment. The Supreme People's Court (SPC) and Supreme People's Procuratorate (SPP) also published their annual work reports, which showed that courts nationwide concluded 541,000 first-instance IP cases in 2021, an increase of 16%, and prosecutor's offices across the country prosecuted 14,000 people for IP infringement last year, a year-on-year increase of 15.4%. Read [SPC work report](#) and [SPP work report in Chinese](#)

Supreme People's Court announces success of IP Tribunal pilot

On 28 February, the SPC reported the tremendous success of a three-year pilot that set up a national-level IP Tribunal to exclusively hear second-instance technology-related IP cases and monopoly cases. The report shows that the number of cases heard by the tribunal increased by 36.4% in 2021. The appeal success rate remains low. Among the 3,460 civil and administrative cases concluded, 65.7% were closed by sustaining the first-instance judgement and 468 cases 13.5% ended up overturning the original judgement. The rest of the cases were concluded by either withdrawal or settlement through mediation. Reportedly, the trial quality and consistency have been improved through measures such as setting up an adjudication rulebook and consolidating parallel patent invalidation and infringement proceedings. [Read the SPC IP Tribunal annual report in Chinese.](#)

SPC releases judicial interpretations on anti-unfair competition law

On 16 March, the SPC issued the Judicial Interpretation (JI) of Anti-Unfair Competition Law which came into effect on 20 March. One of the main considerations in this JI is the inconsistent determination of new types of unfair competition. For example, Article 3 of the JI explains that unfair competition is based on violation of business ethics instead of everyday ethical standards. The JI also stipulates that the people's court shall, in light of the specific circumstances of the case, comprehensively consider industry rules or business practices, the impact on the rights and interests of consumers, the order of market competition, and social and public interests, etc. [Read SPC Judicial Interpretation on Anti-Unfair Competition Law in Chinese](#)

POLICY & GOVERNMENT

CNIPA issues annual guidelines and tasks for promoting high-quality development of IP rights

On 21 March, the China National Intellectual Property Administration (CNIPA) issued the Guidelines for Promoting the High-Quality Development of IP rights (2022) which outlines the phased objectives and metrics to be met in 2022. Also released is a list of specific tasks to be completed by individual CNIPA departments. Some highlights include preparing to finalise the Measures for Trade Mark Agency Management, carrying out reform of the utility model patent system by introducing an obvious inventive check, establishing a grading system for trade mark examiners, strictly enforcing the boundaries of what constitutes high-value patents, conducting a research study on the development of protection system for data property and artificial intelligence, and negotiating for the inclusion of Chinese language in the Madrid and Hague systems. [Read CNIPA annual guidelines for the high-quality development of IP rights](#)

China launches national pilot programme for innovative protection of trade secrets

On 2 March, the State Administration for Market Regulation (SAMR) released the Plan for the National Pilot Program for Innovative Protection of Trade Secret. According to the Plan, regional governments across the country may make proposals to the SAMR to qualify as a designated area for the pilot. Each regional government should outline in the proposal the advantages the region has for implementing the pilot, specify the key tasks and innovative measures to carry out, and specify the level of human and financial resources they plan to commit to the pilot. Upon evaluation of all proposals, 15-20 regional governments will be selected to launch a three-year trade secret protection programme starting from July 2022. China aims to develop a standardised national guide for trade secret protection based on the experience and best practices gained by local governments through the pilot programmes. [Read SAMR national pilot programme for trade secret protection](#)

INDUSTRY NEWS

WIPO report shows China is currently the lead origin of patent filings related to COVID-19 vaccines

Recently, the World Intellectual Property Organisation (WIPO) published the Patent Landscape Report on COVID-19-related vaccines and therapeutics, which revealed that Chinese IP authority CNIPA received the most COVID-19-related vaccine patent applications. As of September 2021, patent applications related to COVID-19 vaccines were filed in 19 patent offices. Most applications were filed in China, WIPO, and the US, with these three offices accounting for 84% of all applications. The report also shows that COVID-19-related patents were on average granted 70% faster compared to other chemistry and bioscience patents in China. The average grant time for COVID-19 patents in 2020–2021 was 15.8 months. [Read WIPO Patent Landscape Report in English](#)

Douyin and Sohu reach copyright cooperation for derivative works

On 16 March, Douyin, the Chinese mainland version of TikTok, announced that it has reached a cooperation agreement with domestic video platform Sohu. Under the arrangement, Douyin will be granted licenses related to the derivative work of all self-made movies and television works available on Sohu. From now on, users on Douyin are free to re-create any derivative work of Sohu without the liability or copyright infringement. In the past, copyright infringement disputes frequently arise between short video platforms e.g. Douyin, Kuaishou and long video platforms e.g. Tencent Video, Sohu, iQiyi, over 'secondary creation' of copyrighted content. Douyin, in particular, has been subject to copyright lawsuits in recent years, with a number of cases initiated by Tencent. [Read media coverage of the cooperation between Douyin and Sohu in Chinese.](#)

CASE

AstraZeneca allowed to withdraw lawsuit after a preliminary antitrust review of pay-for-delay agreement by the SPC

In a recently published judgement, China's Supreme People's Court has permitted the British pharmaceutical company AstraZeneca to withdraw a patent infringement lawsuit from the top court, after judges refrained from concluding that a pay-for-delay patent agreement at the centre of the dispute violates the country's antitrust law. The patent involved in this case was assigned to AstraZeneca from BMS, who has concluded a pay-for-delay settlement agreement with a Jiangsu pharma company Vcare. The agreement allowed Vcare to implement the patent on the condition that Vcare withdraws its invalidation request against the patent, which is now owned by AstraZeneca. This is the first case in China where the court performed a preliminary antitrust review for a non-monopoly case. [Read full judgement in Chinese](#)

OPPO filed a lawsuit against InterDigital in Shenzhen for FRAND licensing rate settlement

It was recently reported that OPPO has filed a lawsuit against InterDigital, a US-listed non-practicing entity (NPE) in the Guangzhou Intellectual Property Court, asking the court to rule on the global FRAND licensing rate. Previously, InterDigital announced at the end of 2021 that the company had initiated patent infringement lawsuits against OPPO, OnePlus and realme in the UK, India, and Germany. The patents at issue include 3G, 4G, 5G, and HEVC standard essential patents (SEP), and injunctions are sought in all suits. OPPO has repeatedly stated that they advocate reasonable fees and settlement of disputes between licensors and licensees through friendly negotiation, and respect the value of patents. The reason for the lawsuit is that InterDigital and OPPO had difficulty reaching an agreement on licensing rates and licensing conditions. [Read media coverage of the OPPO v Interdigital in Chinese](#)

STATISTICS

Copyright

- Over 3.9 million copyright works were recorded with China's National Copyright Administration (NCAC) in 2021, representing a year-on-year increase of 20.13%. As of end of 2021, China has 6.2 million copyright registrations, an increase of 24.3% from the previous year.
- Art and photographic works together take up the majority of the registration at around 81%, while the registration of written works and film/TV works account for 7.4% and 6.14% respectively.
- In 2021, China registered a total of 372 copyright pledges. 91% of them are pledges of computer software.

Enforcement

- The Beijing IP Court heard 306 competition and monopoly cases in 2021, 66% more than 2020. It is estimated the court will receive over 500 monopoly cases in 2022.
- The Ministry of Public Security reports that in the special operation codenamed Kunlun 2021, the police nationwide solved over 75,000 criminal cases in the area of food, drug, environment, and IP crimes, with more than 99,000 suspects arrested.

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).