

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 (November 2022)

POLICY & GOVERNMENT

New draft revision of Patent Examination Guidelines released for comment

On 31 October, the China's National Intellectual Property Administration (CNIPA) released another draft revision of the Patent Examination Guidelines for public comment until 15 December, following the first draft published in August 2021. The proposed amendment sets out the procedural details of various new systems previously introduced by the new Patent Law. Building on the comments collected from the last round of solicitation, further changes are proposed including giving more flexibility to generics to challenge an originator's patent, and allowing certain information processing methods involving diagnosis to be patentable. The patent term extension requirement remain unchanged, still excluding drugs that have been approved overseas. [Read draft revision of patent examination guidelines in Chinese](#)

China's Anti-Unfair Competition Law opened for public comment

On 22 November, the State Administration for Market Regulation (SAMR) released a revised draft of the Anti-Unfair Competition Law for public comment until 22 December. On intellectual property related acts, scope of unfair competition behavior is substantially expanded in Article 7 which governs copycat/confusion behaviors. The newly added behaviors include unauthorised use of logos or pages that are identical with, or similar to, others' webpage design, application software name or icon which have a certain influence on others, and the illegal use of others' commercial marks that have a certain influence as search keywords (for the copycat) to mislead the public. Another impactful change is that the selling and facilitating the sales of copycat would also amount to the breach of Article 7, and in consequence the seller/facilitator could bear the same liability as the producer set out in Article 25. With respect to trade secrets, the draft revision adds a new article for the protection of commercial data, which is defined as 'data collected by business operators according to the law, which has commercial value and for which corresponding technical management measures have been taken'. [Read full draft of China's Anti-Unfair Competition Law in Chinese](#)

CNIPA sets out plans to formulate and revise major IP legislations

On 28 October, the CNIPA published the plan for 'In-depth implementation of the Opinions on Strengthening Intellectual Property Protection' issued by the State Council that sets target dates for the release of various regulations and guidelines as well as major tasks to be carried out in the coming years. Specifically, CNIPA plans to revise the Implementing Regulations of the Patent Law and the Guidelines for Patent Examination by the end of December 2022, new guidelines for trade mark law enforcement by December 2023, and cross-border e-commerce IP protection by December 2022.

CNIPA aims to reform the utility model system by 2025 by introducing an “obvious” lack of inventiveness examination. Other tasks, though with no clear target dates indicated, include amendment of Anti-unfair Competition Law, Trade Mark Law and its implementing regulations, Regulations for Copyright Collective Management, and Regulations for Protection of Information Dissemination Right etc. [Read CNIPA Promotion Plan for strengthening IP protection in Chinese](#)

China steps up supervision of trade mark agents

On 1 November, the CNIPA released the Provisions on Supervising and Administering Trade Mark Agents, effective from 1 December 2022. It sets out rules for recordal of trade mark agents, a code of conduct, supervision, and punishment. It provides that recordal of trade mark agencies are valid for three years and shall be renewed every three years if they wish to continue the services. Trade mark agents are prohibited from assisting with filing, transfer, and abuse of bad faith marks. A firm or practitioner that engages in such illegal conduct will be punished and recorded in the official credit system, and accordingly, the firm or practitioner’s qualification to practise before the CNIPA may be suspended or terminated. In addition to the new provisions, the CNIPA concurrently launched a special campaign running to the end of this year, targeting irregular practices by trade mark agencies. Both initiatives aim to clean up the trade mark services market, increase the professionalism of Chinese trade mark agents, and curb malicious trade mark filings. [Read CNIPA Provisions on Supervising and Administering Trade Mark Agents in Chinese](#)

CNIPA intends to add statement of use requirement for trade mark applications

On 25 October, in a written response to the recommendation put forward by a delegate of the National People’s Congress calling for ‘accelerated revision of the Trade Mark Law and implementing regulations’, CNIPA proposed that a statement of use should be required in trade mark applications to improve the concept of trade mark use and increase the weight of use examination for new applications. The CNIPA also indicated that it intends to expand the office’s power to revoke trade marks ex-officio for failure to submit a description of the use situation according to law, or for improperly exercising the exclusive right to use a trade mark. At present, cancellation of trade marks for non-use can only be achieved upon request by a third party. [Read CNIPA response to NPC recommendation in Chinese](#)

CNIPA launches new English website

On 30 October, a new version of CNIPA’s English website came online. It is designed to improve the service quality of the government website and tell the story of China’s IP protection to the world. The new English website has added a headline news section to convey the voice of the Party and the government, and set up 6 first-level columns and 21 second-level columns of resources, news, laws, topics, and data releases, focusing on “what users are most concerned with” and “what users need most”. Four types of IP resources, namely, patents, trade marks, layout designs of integrated circuits, and geographical indications, are displayed, and some content of interest to foreign users, such as international cooperation, administrative rulings, the Hague Agreement, and the Madrid Agreement have been added. [Check out CNIPA’s new English website here](#)

CASE

Another huge win by foreign brand owner in trade mark infringement dispute

Chinese media report that the German high-end furniture brand Raumplus recently secured a favourable second-instance judgement from the Jiangsu High People’s Court, which upholds the previous ruling which granted RMB 50 million in compensation for trade mark infringement and anti-competitive practices by its former Chinese business partner Delu Furniture (Shanghai). The defendant claimed to be Raumplus, though the cooperation had been terminated, and used the brand name to register companies in Shanghai and Nantong. At one point the number of stores opened across the country exceeded those owned by Raumplus. In order to protect the legal rights of its original brand, Raumplus took the defendant to Suzhou Intermediate People’s Court. The court found that the defendant had malicious intent to infringe, which met the conditions for the application of punitive damages, and the court supported the plaintiffs’ claim for RMB 50 million (~£5.75 million) in damages.

[Read media coverage of the case in Chinese](#)

STATISTICS

Chinese state market regulator reports work on anti-unfair competition enforcement

On 1 November, the State Council Information Office held a regular policy briefing to introduce the Regulations on Promoting the Development of Individual Industrial and Commercial Households. Pu Chun, Deputy Director of the SAMR, said that in order to maintain fair competition, the SAMR has deepened anti-unfair competition law enforcement, severely cracking down on illegal internet word-of-mouth marketing and other unfair competition activities. Since 2021, a total of 14,692 cases of unfair competition have been investigated and dealt with, with fines issued totalling RMB 929 million (~£110 million). [Read media report of the press conference in Chinese](#)

WIPO reports China is filing the most patent and trade mark applications

A new report from the World Intellectual Property Organization (WIPO) released on 21 November found that patent and trade mark filings are on the rise around the world, especially in China, where the CNIPA received 1.59 million patent applications in 2021, more than double the number received by the U.S. Patent and Trademark Office. According to the report, offices located in Asia received two-thirds of all applications filed worldwide in 2021 – a considerable increase from 54.6% in 2011 – mainly driven by long-term growth in China. Patent filings in China last year accounted for nearly half of the worldwide total. [Read WIPO World Intellectual Property Indicators 2022 in English](#)

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).