

This is an ad-hoc newsletter to inform UK stakeholders of recent developments in the Chinese IP environment. The content is collected from publically 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 (October 2020)

LEGISLATION & POLICY

China adopts new Patent Law

On 17 October, China's National People's Congress (NPC) passed the amended Patent Law, which will take effect on 1 June 2021. It has been 12 years since it was last amended in 2008. The new law introduces protection for partial designs and extends design patents protection from 10 to 15 years. It will also bring significant change to the pharmaceutical sector through introducing patent term compensation for a maximum of 5 years and, perhaps most importantly, a patent linkage system, which provides a communication mechanism between the national drug regulator and the patent office to prevent premature entry of generic drugs. Statutory damages will rise to RMB 5 million (Approx. £570,000) and punitive damages to five times the original damages for serious wilful patent infringement. China will also introduce an open-licensing regime to encourage the use of dormant patents. Read full text [here](#) in Chinese and [here](#) in English.

China amends prosecution standards for trade secret criminal cases

On 18 September, China's Supreme People's Procuratorate (SPP) and the Ministry of Public Security (MPS) jointly decided to amend the prosecution standards for criminal cases involving trade secret infringement. Trade secret infringers will now be prosecuted if the misappropriation of trade secret results in RMB 300,000 (Approx. £34,000) of losses caused to the trade secret owners or of illegal gains by the infringer, or if the infringing act directly causes the owner of the trade secret to go bankrupt. The decision brings the prosecution standards in line with the recent judicial interpretation of Supreme People's Court on handling IP criminal cases. More [here](#) in Chinese.

China releases Anti-monopoly Guidelines for Intellectual Property

China's State Administration for Market Regulation (SAMR) released the Anti-Monopoly Guidelines of the State Council in the field of Intellectual Property. The guidelines are dated 4 January 2019 but were only officially released on 18 September 2020. It covers intellectual property agreements that may exclude or restrict competition, such as joint research and development agreements, cross licensing, and grant backs. It also outlines what constitutes an act of dominant market status abuse, including licensing IP rights at unfairly high prices, refusing to license IP rights, and tying sales. Other monopolistic circumstances include the concentration of undertakings and patent pooling. More [here](#) in Chinese.

CNIPA seeks comments on the draft revision of the Patent Examination Guidelines

The China National Intellectual Property Administration (CNIPA) has recently issued the Draft Revision of the Guidelines for Patent Examination for public comment, with a deadline of 15 November 2020. The content of the draft revision relates to Chapter 10, Part II of the Guidelines and mainly focuses on the supplement of experimental data and inventive step of compounds. Among others, the Draft for Comment adds Section 3.5.2 Supplement of Experimental Data for Drug Patent Applications, specifying the examination criteria for experimental data on effects submitted after the date of filing through two typical cases. More [here](#) in Chinese.

China plans to build Shenzhen a benchmark city for protecting intellectual property rights

The Central Committee of the Communist Party of China and the State Council issued the Implementation Plan for the Pilot Comprehensive Reform of Building a Pilot Demonstration Zone of Socialism with Chinese Characteristics in Shenzhen (2020-2025). The plan aims to build Shenzhen into a benchmark city across many areas, including IP protection. According to the plan, Shenzhen will pilot the legal protection of new intellectual property rights, establish a compensation system for IP infringements, and explore legislation in emerging areas. More specifically, Shenzhen will improve the digital IP enforcement through internet information publication, develop evidence disclosure rules, and establish a punitive compensation system for IP infringement. More [here](#) in Chinese.

CASE

Beijing High Court issues two retrial rulings on live sports broadcasts

In September, the Beijing High Court (BJHC) published two judgements of retrial cases related to the protection of live sports broadcasts. In the Sina vs Tianying/LETV on the broadcasting of China Super League matches, the BJHC overturned the 2nd instance judgment and ruled the defendant infringed Sina's "other rights owned by copyright owner". In the CCTV vs Baofeng over the broadcasting of 64 World Cup matches, the BJHC overturned the 2nd instance judgement in which live sports broadcasts were recognised as video recording. Both judgments recognised the cinematographic work status of live sports broadcasts, specifying that the threshold of "work" is the existence of originality, instead of the level of originality. The judgements also determined that the sports broadcasts, being able to be reproduced in a tangible form, meet the requirement of 'fixation on a certain medium'. More on the case details [here](#) and [here](#) in Chinese.

INDUSTRY RELEASE

China Audio-Video Copyright Association released 2019 annual report

On 28 September, China Audio-Video Copyright Association released its 2019 annual report, which shows that the Association collected copyright royalties for RMB 276 million (Approx. £31.5 million), with a year-on-year increase of 44% compared with RMB 192 million (Approx. £21.9 million) in 2018. The Association launched an online contract signing system which facilitated the signing process between copyright owners and licensees. The annual report also discloses the distribution of copyright royalties; the various legal matters dealt with in 2019; and the work that the Association undertook to promote the revision of the copyright law in order to grant producers of sound recordings the right to broadcast and public performance rights. Read full report [here](#) in Chinese.

CNIPA Releases Report on Development Status of the National Patent Agency Industry (2019)

On 30 September, the CNIPA released a report on the Development Status of the National Patent Agency Industry 2019. The report shows that the number of patent agencies in China increased from 796 to 2,691 from 2010 to 2019. As of December 2019, there are 20,192 practicing patent agents in China compared to 6,437 in 2010. Patent agencies are mainly located in Beijing, Guangdong, Jiangsu, Shanghai and Zhejiang, i.e. the more economically developed coastal regions of China. In comparison, there are less than 10 patent agencies in Gansu, Xinjiang, Ningxia, Hainan, Qinghai, Inner Mongolia, and Tibet combined. Read full report [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).