

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



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International Trade

## China IP Newsletter (September 2022)

### POLICY & GOVERNMENT

#### **China's 'Sword Net Campaign 2022' targets online copyright infringement including NFTs**

On 9 September, China launched its annual flagship campaign against online copyright infringement and piracy: 'Sword Net 2022'. Running from September to November, the campaign this year will focus on literature databases, short videos, Non-Fungible Tokens (NFTs), and online platforms. NCAC will target literature databases that use and disseminate copyright articles without authorisation. Short videos on platforms will be scrutinised for unsanctioned cutting, editing, adaptation and compilation of TV and film clips. Enforcement authorities will enhance their supervision over online platforms to counter the selling of infringing products online. Special attention will be given to the abuse of 'safe harbour' rules (exemption from liabilities as intermediaries). Authorities will crack down on the illegal minting of NFTs and production of digital collectibles using others' works of art, music, animation, games, film and television without permission. [Read NCAC Sword Net Campaign 2022 in Chinese](#)

#### **China to strengthen data property protection**

On 20 September, the China National Intellectual Property Administration (CNIPA) announced the formation of the steering group of experts on data IP protection (the experts group) and held the first plenary meeting to discuss the IP protection framework for data. The experts group is composed of 19 experts from different fields, with a wide range of expertise covering economic, legal, industry, technology, and security. The discussion in the plenary meeting touched on a host of technical and procedure issues on the IP framework for data protection, including the subject matter of protection, entities of protection, recordal procedures, and contents of rights. Shen Changyu, CNIPA's commissioner, said at the meeting that building an IP system for data brings innovative changes to the existing framework, offering a unique opportunity to create new rules. [Read more on CNIPA data IP protection steering group in Chinese](#)

#### **More trade mark application services are made available online**

Much effort has been made by the Chinese Trade Mark Office (CTMO) in recent years to digitalise trade mark services for customers. Besides filing applications online, a number of other services have been made available online including filing oppositions, invalidations and non-use cancellations. On 5 September, CTMO announced that rejection appeals can be requested via the online system from 1 November 2022. On 20 September, CTMO published a set of working measures to further promote e-services and facilitate trade mark registration. These measures include optimising the file upload function, formulating guidelines for making requests and responding to office notices online, organising a series of teach-in sessions to educate trade mark agents on how to use the system, and publishing

the top agencies with the highest rates of online service usage. [Read CTMO working measures for promoting trade mark online services in Chinese](#)

### **China considers new measures to tackle bad faith trade marks in next law revision**

In a response to a proposal from a National People's Congress (NPC) delegate, the China National Intellectual Property Administration (CNIPA) revealed new details regarding the new round of Trade Mark Law revisions. CNIPA says that it has carried out 14 research projects on key issues such as fighting against bad-faith registration, strengthening trade mark use obligations, and improving rights granting procedures. Specifically, to tackle malicious filings, CNIPA is considering a number of measures such as raising fines, stipulating civil liability for loss due to malicious trade mark squatting, revising the rules in relation to prohibited use and registration of geographic names. To prevent abuse of trade mark rights, a clear boundary within which the right must be exercised will be set. New rules are being considered that could allow improperly enforced trade mark rights to be revoked. For malicious litigations, a mechanism for counter-damages claims may be introduced. It is also being discussed that the CTMO may set up a procedure that allows the office to revoke a preliminary approval announcement ex officio. [Read CNIPA response to NPC delegate regarding trade mark law in Chinese](#)

### **China sets up Master's Degree in Intellectual Property**

On September 13, the Academic Degrees Committee of the State Council and the Ministry of Education (MOE) issued the Catalogue of Subject Specialties in Graduate Education (2022). According to the Catalogue, a whole new Master's Degree in Intellectual Property will be established. Including a Master's in intellectual property in the catalogue for the first time, answers the call in the State Government's 14<sup>th</sup> Five Year Plan to create an IP-focused professional degree to cultivate more IP specialised talents. However, MOE's catalogue clearly states that no PhD degrees are available for the subject of IP for the moment. [Read MOE's full Catalogue of Subject Specialties in Graduate Education \(2022\) in Chinese](#)

## **JUDICIAL UPDATES**

### **Shanghai High Court issues measures to standardise coordination with WIPO Mediation Center**

On 20 September, the Shanghai High People's Court and the World Intellectual Property Organization (WIPO) Arbitration and Mediation Shanghai Center issued the working measures for coordinating mediation and litigation between the Center and courts. According to the measures, only foreign-related IPR disputes under the jurisdiction of Shanghai courts are entitled for mediation services from the WIPO center. The relevant court handling the mediation shall obtain approval from the Supreme People's Court (SPC). Mediation can be initiated pre-trial or mid-trial and should generally be concluded within 30 days. The court shall review the mediation agreement reached by both parties and rule to allow the plaintiff to withdraw the case or issue a mediation decision. Since its establishment in July 2019, the WIPO Center has accepted 50 mediation cases entrusted by Shanghai courts and concluded 46 cases, with 17 successful mediations (37%). [Read media coverage of the mediation measures by Shanghai High Court and WIPO Center in Chinese](#)

## **INDUSTRY**

### **Automotive industry Standard Essential Patent licensing guidelines**

On 14 September, the China Automotive Technology and Research Center (CATARC) and China Academy of Information and Communications Technology (CAICT) issued the Guidelines for licensing Standard Essential Patent for the automotive industry. The Guidelines put forward four core principles, including "license to all", the calculation basis, considerations, and the cap of royalty. For the SEP royalty basis, it should be set as the product unit that actually contributes to the automotive product by the SEP technology, excluding other product units that are not related to the SEP technology. Reasonable royalties should consider factors such as the actual value contributed by the SEP technology to the automotive product, the cumulative royalty rate in the industry, the number of SEPs held by the patentee, the geographical distribution of the patents, etc. To achieve a balance of interests between the licensing parties, a reasonable cap should be imposed against the aggregate amount of

SEP royalties for automotive products. This cap could be a certain fraction of the reasonable profits in the industry of the licensed products. Read Guidelines of SEP License for Automotive Industry in [Chinese](#) and in [English](#)

## CASE

### **Christian Louboutin lands win in unfair competition case over the signature red sole design**

Christian Louboutin scored a big win for its red sole trade mark in an unfair competition case against Guangdong Wanlima Industrial, a Chinese leather manufacturer. In a judgement announced on 9 September, the Beijing IP Court ruled Wanlima's use of red-sole designs and the term "red-sole shoes" in its product descriptions are highly similar to Louboutin's, and constitutes a "malicious infringement" of the French luxury brand's signature design. Louboutin submitted evidence stating the brand started promoting its signature red-sole products in mainland China in 2003 and started selling red-sole products in the market in 2011. The court ruled the evidence was sufficient to prove Louboutin's red sole "decoration" and "trade name" as having "a certain influence." Wanlima was ordered to immediately cease selling red-soled shoes permanently and pay Louboutin RMB 5 million (~£650,000) in damages and RMB 445,000 (~£57,400) in legal expenses. [Read media coverage of Christian Louboutin's win over red sole shoes in English](#)

### **China's top court reaffirms the right for Chinese courts to set global SEP licensing rates**

In a decision released on 18 September, China's Supreme People's Court (SPC) reaffirmed the right for Chinese courts to set global FRAND licensing rates for standard essential patents based on connections to China. OPPO, a Chinese phone maker, had sued Nokia in Chongqing asking the court to set global licensing rates for Nokia's standard essential patents (SEPs), which it did. On appeal, the SPC affirmed the right for Chinese People's Courts to set global SEP licensing rates in a decision that echoes the earlier OPPO v. Sharp case. Factors relevant in the decision: OPPO is a Chinese company; a large percentage of the patents are Chinese; China will be the main source of revenue; China was the location of the license negotiations; and China is where assets relevant for enforcement are located. [Read media coverage of OPPO v Nokia in Chinese](#)

## STATISTICS

### **Survey finds social satisfaction with China's IP protection to be at record high**

At a 6 September press conference, the CNIPA released the results from the 2021 National IP Protection Social Satisfaction Survey and discussed patent linkage cases, administrative adjudication cases, and abnormal patent applications. Social satisfaction with the country's IP protection last year was reported as a record high of 80.61 out of 100 points. One year after the implementation of the new Patent Law, the CNIPA has concluded 28 administrative adjudication cases for early resolution of drug patent disputes, and it took less than four months to conclude the first two administrative adjudications of major patent infringement disputes case. In 2021, foreign applicants' invention patent grants and trade mark registrations in China increased by 23% and 5% year-on-year respectively. [Read transcript of CNIPA September press conference in Chinese](#)

### **China's blockchain patent applications make up 84% of world's total**

China's Ministry of Industry and Information Technology (MIIT) claimed on 20 September in a news conference that the country accounted for more than 84% of the world's blockchain patent applications, despite the country's ban on cryptocurrencies. China has banned cryptocurrencies, but its technology source, blockchain, is used by companies and the government. The China Academy of Information and Communications Technology, an academic backed by MIIT, said in July that China has more than 1,300 blockchain companies as of March this year. The MIIT did not cite its source for the data on global blockchain patent applications. [Read MIIT 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)).