

**Main Contents:**

1. [Shanghai IP Arbitration Court officially unveiled](#)
2. [Patent Reexamination Board of SIPO and Guangdong High Court Establish Exchange Mechanisms](#)
3. [First Circuit Tribunal of Patent Reexamination Board Established in Guangdong](#)
4. [Yiwu established rules for IP protection at exhibitions](#)
5. [Joint enforcement launched in Western China](#)
6. [Well-known Trademarks be further Protected](#)
7. [National IPR Judicial Protection Action Launched in November](#)
8. [More IP-related laws to be revised by the Standing Committee of the 11th NPC](#)
9. [SPC raised 5 Key aspects on IPR Judicial Protection](#)
10. [Anti-piracy Alliance for Internet Film & TV Established in Beijing](#)
11. [More Than 130,000 IPR-Related Cases Concluded Nationwide](#)
12. [Representatives meet to discuss how to assist IP protection](#)
13. [Draft implementing rules for patent published for public opinions](#)

Shanghai IP Arbitration Court officially unveiled

2008-11-01

Shanghai Intellectual Property Arbitration Court, established by Shanghai Municipal IP Office and Shanghai Arbitration Committee, was formally unveiled on October 29. Located in Shanghai, the Arbitration Court is to provide services to the whole Yangtze delta region with a target to the whole country.

The establishment of the arbitration court was due to the fact that since there are an increasing number of IP owners and strong awareness for IP protection, the number of IP disputes has also increased remarkably in recent years. It is therefore urgent to raise the capability and efficiency in dealing with such cases, which is essential in maintaining a fair and sound competition order. As compared to other solutions, arbitration has become a common selected solution in Europe and US .due to its advantages of experts data, one final decision, time saving, secret keeping for parties, no regional limitation, and so on.

It is learned that the arbitration court was a joint efforts by Shanghai IP office and Shanghai Arbitration Committee. Upon establishment of the arbitration court, the list of the Expert Consultation Committee of Shanghai IP Arbitration Court and the first 61 arbitrators were made known to the public. The committee and the arbitrators are mainly experts, administrators, lawyers or senior retired judges.

Patent Reexamination Board of SIPO and Guangdong High Court Establish Exchange Mechanisms

2008-11-01

Over the past years, Guangdong witnessed an increase in IPR disputes and ranked No.1 in receiving IP cases for years. The number of IPR-related cases of the first instance from this January to September has reached 3,324 pieces, exceeding the total number of last year. In order to improve the trial skill of IP judges, Guangdong Provincial Higher People's Court and Patent Reexamination Board of the State Intellectual Property Office (SIPO) started personnel exchange program from 2007, and the program has achieved significant progress.

Recently, the two sides signed an exchange and cooperation agreement aiming at long-term and stable cooperative relationship. The agreement set up the regular mechanism for personnel exchange, patent technology consultation, priority settlement of concerned cases, information exchange, mutual research, and hi-level meetings.

Judges from Guangdong Higher People's Court to Patent Reexamination Board will learn the knowledge on mechanics, electronics and telecommunications, procedure of patent grant, and patent reexamination. And the staff of the Board will learn the trial of the patent cases. Upon the request of either side, legal or technical advice can be provided. Typical cases and case with guidance in administrative and judicial examination will be communicated between the two sides. Accelerating procedure can be initiated within Patent Reexamination Board when the Board is informed of concerned reexamination or invalidation cases. With regard to issues of common

Concern, both sides shall designate experts or hold joint seminars to study further.

The exchange mechanism is helpful in coordinating the patent administrative enforcement and judicial protection, and improves the judicial protection in Guangdong.

First Circuit Tribunal of Patent Reexamination Board Established in Guangdong

2008-11-02

On October 29, 2008, the unveiling ceremony of the First Circuit Tribunal of the Patent Reexamination Board of the State Intellectual Property Office (SIPO) was held in Guangzhou of Guangdong province, which is one of the achievement from the meeting and consultation mechanism between Guangdong provincial government and SIPO since 2008. This is reported to be an important measure in enhancing central and local interaction and integrating local resources, and it is of far-reaching effect to the IP work in Guangdong.

In addition, the cooperation between SIPO and Guangdong province will be extended to other areas such as share of resources, training of professionals, use of information, enhancement of protection and establishment of mechanism.

The establishment of First Circuit of Patent reexamination Board is part of the cooperation between SIPO and Guangdong IP Office which is regarded as one of the important tasks under the meeting and consultation mechanism. Other tasks include installment of multimedia recording system for the hearing, research on issues related to IP protection, exchange activities and establishment of information communication channels.

Yiwu established rules for IP protection at exhibitions

2008-11-02

Recently, Yiwu Exhibition Office in Zhejiang province and Bureau of Science and Technology, Administration for Industry and Commerce and the Culture, Broadcast and News Bureau of Yiwu City, jointly issued the Provisions for IP Protection at Exhibitions in Yiwu City. (hereinafter the Provisions).

The Provisions are applicable to patent, trademark and copyright protection in various activities such as economic, technological and trade exhibitions, fairs, expos, trade fairs and exhibitions held within the administrative area of Yiwu. The provisions stipulates the rights and obligations of sponsors and participants, clarifies the forms and working mechanism of the IPR complaining office during the exhibitions, sets up the process for case receiving, transfer and handling and strictly limits the timeline for a case settlement. The provisions also provides for principles such as fairness, justice and transparency and the concept of convenience, efficiency of services for the people with a view to protecting the legal rights and interests of IPR holders.

The issuance and implementation of the provisions indicate a new breakthrough in protecting IP at exhibitions held in Yiwu City, and will effectively resolve the difficulties occurred at the exhibitions such as frequent IPR disputes, hard complaint process and complicated handling procedures.

In recent years, Yiwu's exhibition industry maintains rapid development. Statistics show that an average of about 30 specialized exhibitions is held in Yiwu Meihu Conference and Exhibition

Center. Yiwu has become China's first county-level city authorized to hold exhibitions abroad, and has won the title of China's top 10 best exhibition cities several times. From 2002, enforcement officials in areas of patent, industry and commerce and copyright were already jointly involved in the protection of IP at exhibitions held in Yiwu.

Joint enforcement launched in Western China

2008-11-03

Recently representatives from the IP Offices of 12 provinces in Western China signed the cooperation agreement on administrative enforcement for patent, which makes it possible to settle cross-territory patent infringement. The territory covers 12 provinces and municipalities including Chongqing, Sichuan, Guizhou, Yunnan.

According to the agreement, the parties involved will establish uniform procedures for receiving patent cases, rules of case handling and related enforcement forms. Wherever the infringement occurs in any of the 12 provinces or municipalities, the concerned local patent office in that area shall be responsible for investigation and other IP office shall provide necessary support and collaboration.

Where the infringement is found in one province but it happened in a different province, and where the case is related to passing-off or counterfeit patents, the IP office in which the infringement is found should send the related documents to the IP office where the infringement happened. Both IP office should coordinate and make joint efforts in enforcing patents.

It is said that the agreement shall integrate and improve the administrative enforcement capabilities in 12 provinces and municipalities.

Well-known Trademarks be further Protected

2008-11-04

According to one of Chief Justice from Supreme People's Court, judicial protection mechanism shall be further developed and play a leading role in protecting intellectual property. The remarks were recently delivered at the China Trademark Annual Meeting.

Such remarks were a reflection from the released National IPR Strategy Outline, in which a strong judicial protection system shall be strengthened. As for judicial protection for trademarks, the People's Courts already established judicial principles for identification of facts for well-known marks, identification of individual case, positive identification, and identification on demand. The judicial identification system should be further improved in areas such as the production of evidence, scope for identifying well-known marks, identification standards, and elements for protection.

National IPR Judicial Protection Action Launched in November

2008-11-14

The Supreme People's Court announced at the beginning of November that the courts across the country will launch a month campaign in November entitled "Judicial Protection, Stimulating Innovation" in order to strengthen judicial protection for IP.

During November, the Supreme People's Court, higher people's courts and the intermediate and preliminary people's courts across the country will choose some cases of significant social effect for

trial, and NPC delegates, members from CPPCC, social public are to be invited to sit in for trial. Meanwhile, workshops will also be held to solicit opinions and suggestion on how to strengthen the trial of IPR-related case.

The overall plan for the month includes: press conference, concentrated trials and collection of public opinions, publication of typical cases, issuance of related measures. The aim is to promote the leading roles of judicial protection for IP rights, improve the awareness for protecting IP, stimulate and protect independent innovation.

This campaign is one of the follow-up measures in implementing Outlines for National IP Strategy.

More IP-related laws to be revised by the Standing Committee of the 11th NPC

2008-11-14

It is reported that the legislation plan of the Standing Committee of the 11th National People's Congress was recently announced, and a list of 64 legislative projects is to be completed including Patent law, Trademark law, Traditional Chinese Medicine Law, etc.

The legislative plan contains 49 law drafts that the Standing Committee of the 11th National People's Congress strives to discuss and review in its tenure, such as Patent Law and Trademark Law. The plan also includes researching, drafting and reviewing 15 law drafts at proper time, such as Traditional Chinese Medicine Law.

The amendment of Patent Law was already reviewed once by the Standing Committee of the 11th National People's Congress. According to the stipulation of Legislation Law, the law drafts listed

in the agenda of the Standing Committee should be put to the vote after three rounds of examinations by the Standing Committee.

SPC raised 5 Key aspects on IPR Judicial Protection

2008-11-17

According to a recent workshop with NPC delegates, CPPCC members and experts, the Supreme People's Court (SPC) raised the following 5 key tasks in the near future.

First, efforts shall be made in constructing the judicial system and in releasing the leading role of judiciary in IP protection.

Second, efforts shall be also made to improve the level and efficiency of the judiciary, and it should be emphasized that judiciary is for people. Punishment should be intensified against IPR infringement, in particular the counterfeit activities and piracy. The awareness and capability of IP rightholders should be improved, and cost for safeguarding the rights should be lowered. The border of IP should be reasonably defined in order to avoid the misuse of IP rights and maintain a fair and competitive market and protect the rights of the social public.

Third, it will further improve the IP trial system and work mechanism; simplify the trial procedure. Studies will be made on establishing a unified court for receiving and handling of civil, administrative, and criminal cases related to IP. Possibilities should be explored with regard to establishment of an appeal court for IP. Coordination shall be made for the revision of patent and trademark law.

Fourth, it will step up efforts in enhancing IPR judicial interpretations and unifying judicial standards. China will soon establish the

interpretations related to the identification and protection of well-known marks. Standards in judging the patent infringement and judicial interpretation on examining the monopoly case will also be considered and started. In addition, other system will be either established or improved such as the judicial evaluation, expert witness, technical investigation, pre-trial provisional measures.

Finally, it will further improve the quality and capability of IP judges and strengthen the training for IP judges.

Anti-piracy Alliance for Internet Film & TV Established in Beijing

2008-11-19

On November 12, China Internet Film & TV Anti-piracy Alliance was set up in Beijing. Members of the alliance include some media companies such as Sina and law firms from some major cities.

The Alliance is organized and guided by National Copyright Administration (NCA) as well as China Copyright Association. The Alliance will be committed to fighting against online film & TV piracy, and maintaining the legal rights of copyright holders, users and copyright industry. Experts and scholars from areas of IP law and internet technology also are invited to be members of the Alliance.

The alliance symbolized a start of anti-piracy action involving government agencies, associations, industries, media and lawyers.

More Than 130,000 IPR-Related Cases Concluded Nationwide

2008-11-21

The Supreme People's Court recently announce that, by the end of September 2008, more than 130,000 IP-related cases were concluded as first instance cases including civil, administrative and criminal cases.

In terms of civil cases, the courts in China started to hear contract cases related to technologies in late 1970s, then trademark, patent and copyright cases in mid-1980s and cases of unfair competition in early 1990s. The statistics show that, from 1985 to the end of September 2008, local courts nationwide received 135,475 cases and 124,851 were concluded. Of all the cases, 31,005 were related to patent, 19,985 were for trademarks, and 42,072 were for copyright, 23,755 related to contract of technologies, 8,727 related to unfair competition, and 9,931 related to other IP rights. The number of IP cases increased more significantly after China's entry into WTO. For example, from 2001 to 2007, local courts nationwide received a total of 77,463 cases and 74,200 were concluded, an annual increase of 22.6 percent and 22.92 percent respectively. In the first nine months of 2008, local courts nationwide already received a total of 18,545 IP cases as first instance.

Regarding administrative trials of IP cases, since 1985 when China implemented the patent law, the courts started to receive administrative cases for patent in which Patent Reexamination Board was defendant. It is one of the functions by the court to review the administrative decisions and determine whether patent or trademark should be granted or approved for registration. The other function is to review cases related to administrative enforcement. From 1985 to the end of September 2008, local courts nationwide received a total of 4,249 cases as first instance cases and 3,847 were concluded. Of all the cases, 2,749 were related to patent, 1,407

related to trademark, 93 related to copyright. According to the chief justice from the Supreme People's court, a majority of the cases is appeals from either the Patent Reexamination Board or the Trademark Review and Adjudication Board. This became true after the laws revised to the extent that the administrative decisions by Patent Reexamination Board or the Trademark Review and Adjudication Board. shall be reviewed by judicial organs.

In terms of criminal adjudication, the courts have done much in severely punishing criminals of IPR infringement. In 2007, local courts nationwide concluded 2,684 IPR-related criminal cases, involving 4,328 persons and 4,322 were found guilty.

Representatives meet to discuss how to assist IP protection

2008-11-25

Representatives from the State Intellectual Property Office (SIPO), Chongqing Municipal Intellectual Property Office, IP Development and Research Center and other IP offices from China met recently in Chongqing to discuss how to provide assistance in safeguarding the IP rights. This is a mechanism established on the basis of the current IP situation in China.

At present, 44 centers were already established across China. The centers are to provide services which can help the rightholders and enterprises with their IP protection and use of IP. Other services include solution of IP problems in the economic activities in order to improve the legal situation for IP and to promote the efficient operation of IP system. In addition, the centers can help Chinese enterprises better protection and use the IP and improve the competitiveness of the enterprises.

Draft implementing rules for patent published for public opinions

2008-11-28

In spite of the fact that the third amendment of the Patent Law is still under review by the standing committee of NPC, the SIPO recently published the draft Regulations for the Implementation of the Patent Law to solicit public opinions. The deadline for submitting the opinion is December 5, 2008.

The draft explains the background of the revision for the Regulations and contents of the revision, which covers 11 aspects such as the title, patent application documents, special requirements for the application of patent of invention and creation completed by using genetic resources, application of patent of model utility and design, procedures of reexamination and invalidation chargeable items and procedures compulsory license rewards to inventors and designers of service inventions or creations, patent rights protection, and provisions related to entry into national phase.

It is known that the revision for regulations started in 2007 when the guiding outlines were published listing 16 key issues related to the revision. The public was invited to bid for the study and research on those key issues and 21 teams were finally selected to be responsible for the different issues. The teams are composed of officials and experts from SIPO, academic institutions, research institutes and patent agencies. After in-depth study, a report of 1.9 million Chinese characters was finalized and became the basis of the first draft of the regulations. The final draft was formulated after several round of discussion.

It is learnt that the Standing Committee of the National People's Congress already made the first review for the revised patent law.