

Correspondence on the Protection of Intellectual Property in China

Volume No. 1 of 2022

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Part I. Domestic Legislation and Policy Updates

The Law of the People's Republic of China on Science and Technology Progress Has Been Implemented

The 32nd session of the Standing Committee of the 13th National People's Congress of the People's Republic of China revised and adopted the Law of the People's Republic of China on Science and Technology Progress on December 24, 2021. The new version came into effect on January 1, 2022.

The revision provides regulations for a series of issues such as solutions for financing difficulties for technology-based enterprises, stimulation for regional scientific and technological innovation, etc. The implementation of the revised law is a full response to the new situation, new tasks and new requirements of national science and technology development, and is also a key driving force for promoting the modernization of China's science and technology governance system and governance capacity.

The full text of the Chinese version of the new law can be accessed at <http://www.npc.gov.cn/npc/c30834/202112/1f4abe22e8ba49198acdf239889f822c.shtml>

China Has Joined the Hague Agreement Concerning the International Registration of Industrial Designs

After the amendments to the Patent Law were approved, the China National Intellectual Property Administration (CNIPA) started the domestic process required for the accession immediately. In January this year, China officially joined the 1999 Geneva

Act of the Hague Agreement upon the approval of the State Council.

China's accession to the Hague Agreement will facilitate its integration into the world design protection system, enhance the innovative capacity of the design community in China, and push "Created in China", "Designed in China" and "Made in China" to go global. In turn, it will contribute to the development of international industrial design and a better world. In the meantime, it will give a stronger impetus to China's deep engagement in the global IPR governance within the framework of the WIPO.

Both the Hague Agreement and the Interim Measures of Related Provisions after China's Accession to the Hague Agreement Concerning the International Registration of Industrial Designs became effective for China on May 5, 2022. Applicants of the international design application can handle the relevant business in accordance with the provisions of the Measures.

The full text of the Chinese version of the formal publication can be accessed at https://www.cnipa.gov.cn/art/2022/2/9/art_53_173132.html

***The Marrakesh Treaty to Facilitate Access to Published Works for
Persons Who Are Blind, Visually Impaired or Otherwise Print
Disabled Enters into Force in China on May 5***

On October 23, 2021, the 31st session of the 13th National People's Congress Standing Committee adopted the Decision on the Ratification of the Marrakesh Treaty. The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled entered into force with respect to China on May 5.

The Marrakesh Treaty stipulates the scope of the beneficiaries of the Treaty, the obligations of the contracting parties, and the rights that the beneficiaries of the Treaty can enjoy. The Treaty will greatly enrich the spiritual and cultural life of Chinese people who are print disabled and show China's international image of vigorously developing social welfare for the disabled and fully respecting human rights.

On May 16, 2022, the National Copyright Administration stated at the CNIPA's regular press conference that it will further improve the supporting system, strengthen the guidance and supervision for authorized entities, encourage publicity, especially focus the target on publicity to stakeholders such as copyright owners, persons with print disabilities, and institutions that produce and provide accessible formats for persons with print disabilities, so as to promote the implementation of the Marrakesh Treaty in China.

The full text of the Chinese version of the official publication can be accessed at <https://www.ncac.gov.cn/chinacopyright/contents/12227/356698.shtml>

***China National Intellectual Property Administration Requires
Continuous and Severe Crackdown on Malicious Trademark
Registration***

On April 12, 2022, the China National Intellectual Property Administration (CNIPA) issued the "Notice of the CNIPA on Continuing to Severely Crack Down on Malicious Registration of Trademarks" in order to promote high-quality development of IP undertakings and create a favorable environment for innovation and business.

According to the "Notice", in order to create a clean and upright trademark registration management order, it is necessary to emphasize the focuses and crack down on typical malicious behaviors; to strengthen monitoring and early warning to achieve accurate

identification; to enhance systematic governance and apply severe punishment according to the laws; to reinforce supervision on agencies and thus maintain industry order; to strengthen credit supervision and implement joint punishment; to strengthen coordination and cooperation to form a joint governance force; to strengthen positive guidance and create a good atmosphere. It is necessary to keep on cracking down on malicious trademark registration with a "zero tolerance" attitude, to safeguard social public interests, so as to accelerate China's transformation from a big IP country to a strong IP country.

At present, the national IP enforcing system is severely cracking down on malicious trademark registration with high pressure and has achieved remarkable results, focusing on special campaigns against malicious trademark squatting and hoarding of trademarks, The "Notice" will be conducive to further building a new mechanism of departmental coordination, top-down linkage, and social co-governance, which will promote the formation of a good trademark registration management order.

The full text of the Chinese version of the official publication can be accessed at https://www.cnipa.gov.cn/art/2022/4/12/art_75_174557.html

Regulations on the Promotion and Protection of Intellectual Property Rights Has Come into Force in Jiangsu Province

On January 14, 2022, the 28th meeting of the Standing Committee of the 13th Jiangsu Provincial People's Congress adopted the Regulations of Jiangsu Province on the Protection and Promotion of Intellectual Property Rights, which came into force on April 26, 2022.

The Regulations consist of six chapters and sixty-eight articles, aiming to promote high

quality development of IPR. The Regulations clearly state that policy system is to be formed for quality innovation, financial institutions are encouraged to provide financial support for SMEs, and policies for the cultivation of talents are to be perfected.

At the same time, Jiangsu Province will build and improve the general protection pattern of IPR. It will build an IP protection system integrating administrative and judicial protection, government supervision and industry self-regulation, self-protection and social governance. In addition, it will strengthen the key areas of IP protection, such as trade secrets, trademarks, exhibitions etc.

The full text of the Chinese version of the new Regulations can be accessed at <http://www.jsrd.gov.cn/>

Regulations on the Protection of Intellectual Property Rights Has Been Enacted in Guangdong Province

The Standing Committee of the Guangdong Provincial People's Congress enacted the Regulations of Guangdong Province on the Protection of Intellectual Property Rights, which were adopted by the Standing Committee of the 13th Provincial People's Congress at its 41st meeting on March 29, 2022 and came into force on May 1, 2022.

As legislative basis and institutional guarantee, the Regulations clarify the policy orientation of "strict protection" of IPR, require heavy penalties for relevant IPR infringement, and establish a disciplinary system for breach of trust and special actions for administrative protection of IPR. The Regulations focus on "fast protection" and clarify a series of fast mechanisms, such as fast lanes for patent application confirmation, fast rights maintenance mechanisms and fast resolution mechanisms for patent infringement disputes, etc. The Regulations also emphasize the need to establish a "protection" exchange mechanism, strengthen the construction of IP cooperation

mechanisms in the Guangdong-Hong Kong-Macao Greater Bay Area.

The full text of the Chinese version of the new regulations can be accessed at

<http://www.rd.gd.cn/>

Regulations on the Protection of Intellectual Property Rights Has Been Adopted by Beijing Municipality

In order to strengthen the protection of intellectual property rights, to stimulate innovation and creativity, to build a leading district in IPR protection, and to support and promote the construction of an international science and technology innovation center and a national cultural center, the Standing Committee of the 15th Beijing Municipal People's Congress adopted the Regulations of Beijing Municipality on the Protection of Intellectual Property Rights at its 38th meeting on March 31, 2022. The Regulations came into force on July 1, 2022.

The Regulations are the first comprehensive regulations focused on protection of IP in Beijing, consisting of 7 chapters and 57 articles. The regulations highlight key areas of protection, aim to improve the protection system for new fields and new industries (e.g., online transactions), and to protect IPR formed in data collection and other activities in accordance with the law.

In the next step, the Beijing Municipal Intellectual Property Office will work with all relevant departments in the city to earnestly implement the Regulations.

The full text of the Chinese version of the new regulations can be accessed at

http://www.beijing.gov.cn/zhengce/dfxfg/202204/t20220414_2676432.html

Part II Important Events and Reports

The 2022 National Intellectual Property Publicity Week Activities Launched Online

On the morning of April 20, the launching ceremony of the 2022 National Intellectual Property Publicity Week Activities was held online. The theme of this year's publicity week activities is "Comprehensively Boost China's Competitiveness in the Area of Intellectual Property Rights". The activities were led by the China National Intellectual Property Administration and the State Administration for Market Regulation, and co-organized with 18 departments.

Zhang Gong said that it is necessary to thoroughly study and implement the spirit of General Secretary Xi Jinping's series of important instructions, deeply understand the central strategic intentions, fully, accurately and comprehensively implement the new development concept, accelerate our country's progress from a big intellectual property country to a strong intellectual property country, and better serve the construction of new development pattern and promotion of high-quality development; Shen Changyu said that on the new journey, the national intellectual property system will adhere to the guidance of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, earnestly implement General Secretary Xi Jinping's important instructions on intellectual property work and also the decisions and deployments of the CPC Central Committee and the State Council, bear in mind the "two overall situation" and the "top priorities of the country", stay firm in our original aspiration and the great mission, deliver solid outcomes in the area of intellectual property of our work and firmly take the road of intellectual property development with Chinese characteristics; Mr.Tang said that WIPO looks forward to working with partners around the world to help young people use IP to transform their ideas into world-changing products and services and to

realize its new vision of “a more inclusive IP ecosystem that works for everyone, everywhere”.

The full text of the Chinese version of the formal publication can be accessed at https://www.cnipa.gov.cn/art/2022/4/20/art_53_174845.html?bsh_bid=5805820902.

White Paper on Intellectual Property Protection by Chinese Courts in 2021 Has Been Released by the SPC

On April 21, the Supreme People’s Court (the SPC) released a white paper on Intellectual Property Protection by Chinese Courts in 2021. Courts across China had handled 642,968 cases involving intellectual property rights (IPR) in 2021, of which 601,544 had been concluded. The numbers of cases handled and concluded had grown by 22.33 per cent and 14.71 per cent respectively from 2020, and punitive compensations were awarded in 895 cases.

According to the white paper, the courts are seeing an increasing amount of IPR cases related to the internet, with more and more new and complicated legal issues involved.

The full text of both Chinese and English versions of the white paper can be accessed at <https://www.court.gov.cn/zixun-xiangqing-355841.html>

CCPIT Chairman Ren Hongbin Meets Virtually with WIPO Director General Daren Tang and Signs MOU on Cooperation

On April 21, Ren Hongbin, Chairman of the China Council for the Promotion of International Trade (CCPIT), met in Beijing via video link with Daren Tang, Director

General of the World Intellectual Property Organization (WIPO). The two sides exchanged views on further deepening exchanges and cooperation.

Ren Hongbin said that the CCPIT and the WIPO went back a long way, with their cooperation dating back to 1973 when the CCPIT delegation made its first contact with the WIPO on behalf of China. Next year will mark the 50th anniversary of China-WIPO cooperation, and the past five decades have witnessed the continuous development of China's IP cause. As one of the pioneers, trailblazers and leaders in the field of IP in China, the CCPIT stands ready to work with the WIPO to hold relevant commemorative events to promote deeper and higher-level cooperation in the field of IP.

Daren Tang extended his gratitude to the CCPIT for its important role in the establishment of cooperative relations between the WIPO and China. He suggested holding a series of activities such as "Exhibition of China's Achievements in IP in the Past 50 Years" at the WIPO headquarters in Geneva, to jointly commemorate "the 50th anniversary of China-WIPO cooperation". Daren Tang noted that the WIPO and the CCPIT, with broad cooperation prospects, can complement each other through resource integration and conduct extensive and practical cooperation in promoting WIPO's global service system and carrying out IP training.

During the video meeting, Ren Hongbin and Daren Tang signed the Memorandum of Understanding on Cooperation between the China Council for the Promotion of International Trade and the World Intellectual Property Organization. Ke Liangdong, Vice Chairman of the CCPIT, and officials of relevant departments also attended the meeting.

The full text of the Chinese version of the official publication can be accessed at <https://www.ccpit.org/a/20220422/20220422n5b5.html>

***White Paper on China's Intellectual Property Protection in 2021
has been officially released by the CNIPA***

The CNIPA officially released the White Paper on China's Intellectual Property Protection in 2021 on April 25, 2022. According to the White Paper, in 2021, China made positive progress in the construction of IP protection system, approval and registration, cultural construction and international cooperation.

According to the White Paper, the effectiveness of China's IPR protection in 2021 was widely recognized both at home and abroad. Social satisfaction with IPR protection continued to improve, reaching 80.61 points (on a percentage scale) and rose 0.56 points from last year. Two laws and regulations related to IP were amended and introduced in 2021, four judicial interpretations related to IP protection were issued, and more than 20 policy documents related to IP protection were introduced and implemented. 696,000 invention patents were granted in China in 2021, representing a year-on-year increase of 31.3%. The number of trademark registrations was 7.739 million, which showed a year-on-year increase of 34.3%. 5,928 applications for international registration through the Madrid Protocol were submitted by domestic applicants, ranking third in the Madrid Union. The total number of copyright registration was 6,264,400, which showed a year-on-year increase of 24.30%. The number of applications for new agricultural plant variety rights was 9,721, representing a year-on-year increase of 22.85%. In 2021, the total number of publicity reports on major topics related to IP protection exceeded 100,000, and the number of participants in related topics on new media platforms was up to nearly 4 billion. In terms of international cooperation, exchanges and cooperation with international organizations such as the World Intellectual Property Organization (WIPO) and other national and regional IP institutions were deepened, and initiative was taken in international rule-making, to promote the development of a more just and reasonable global IP governance system.

The full text of the Chinese version of the report can be accessed at

https://www.cnipa.gov.cn/art/2022/4/25/art_2436_175159.html

The Supreme People's Procuratorate Has Released a Batch of Typical Cases on the Protection of IPR

On the morning of April 25, the Supreme People's Procuratorate (the SPP) released a batch of typical cases for the protection of intellectual property rights. There are 11 cases in this batch, including 5 cases involving trademark infringement, 2 cases involving trade secret infringement, 1 case involving copyright infringement, and 3 civil supervision cases.

The procuratorial bodies in various regions actively built a cross-regional cooperation mechanism, cracking down on both upstream and downstream crimes. In the case of “Wei et al. selling products with counterfeit registered trademarks”, the Olympic-related IP protection task force within Beijing Procuratorate first discovered sales of infringing products related to the Winter Olympics on the online platform, and passed the clues to relevant public security body. The prompt action by the Beijing Procuratorate helped strengthen communication and coordination between relevant functional departments, establishing a "green channel" for Olympic-related IP cases.

The full text of the Chinese version of the official publication can be accessed at

https://www.spp.gov.cn/xwfbh/wsfbt/202204/t20220425_555133.shtml#1

The Supreme People's Procuratorate and the CNIPA Held A Signing Event to Strengthen Coordinating Protection and

Collaborative Opinions on Intellectual Property Rights

On April 25, the Supreme People's Procuratorate and the China National Intellectual Property Administration (CNIPA) held a signing event to strengthen coordinating protection and collaborating opinions on intellectual property rights. Zhang Jun, Procurator-General of the Supreme People's Procuratorate, and Shen Changyu, Commissioner of the CNIPA attended the signing event and delivered remarks. Tong Jianming, Executive Deputy Procurator-General of the Supreme People's Procuratorate, hosted the signing activities. Gong Ming, Deputy Ministerial-level Member of the Procuratorate Committee of the Supreme People's Procuratorate, and Hu Wenhui, member of the Party Group and Deputy Commissioner of the CNIPA, signed the *Opinions on Strengthening Collaboration on Intellectual Property Protection* (herein after referred to as "Opinions") on behalf of both parties.

According to the introductions, the Opinions consist of nine parts and 17 articles, making specific arrangements for the establishment of a regular liaison mechanism and the establishment of a sound information sharing mechanism. The introduction of the Opinions is of great significance to further deepen the collaboration and cooperation between administrative and judicial protection, improve and perfect the mechanism for the convergence of administrative and criminal procedures, promote the construction of a collaborative protection system for IP, and enhance the effectiveness of judicial and administrative protection of IP.

The full text of the Chinese version of the formal publication can be accessed at

https://www.cnipa.gov.cn/art/2022/4/26/art_53_175219.html?bsh_bid=5805819668

Office of the National Leading Group on the Fight Against IPR Infringement and Counterfeiting Has Released the Report on the

Latest Development of IPR Protection and Business Environment in China (2021)

Office of the National Leading Group on the Fight against IPR Infringement and Counterfeiting has released the Report on the Latest Development of IPR Protection and Business Environment in China (2021) on April 26, 2022, which comprehensively compares the remarkable achievements of China in recent years in strengthening IP protection, optimizing the business environment, and increasing international exchanges and cooperation.

The Report analyses the international and domestic situation in 2021 and presents the new achievements in the protection of IPR in 2021. For example, in terms of rule of law, China has amended the Seed Law, Regulation on the Supervision and Administration of Medical Devices, Regulation on the Supervision and Administration of Cosmetics as well as other laws and regulations, and issued Measures for the Supervision and Administration of Online Transactions, Measures for the Supervision and Administration of Cosmetics Manufacturing and Operation, and a series of judicial interpretations. The Report also shows the new progress of optimizing the business environment in 2021. For example, anti-monopoly and anti-unfair competition work have been advancing steadily, the hidden barriers have been effectively cleared, fairness of market competition has been further enhanced. At the end of the Report, new initiatives for international exchange and cooperation in 2021 are elaborated.

The full text of both Chinese and English versions of the report can be accessed at <http://www.ipraction.gov.cn/article/gzdt/ywdt/202204/375976.html>

2022 IP5 Heads of Office and IP5 Industry Meetings were Held

From June 8 to 9, the 2022 IP5 Heads of Office and IP5 Industry Meetings were Held via video conference and hosted by the European Patent Office in rotation. Mr. Shen Changyu, Commissioner of the CNIPA, Mr. Ant ó nio Campinos, President of the European Patent Office (EPO), Mr. Mori Kiyoshi, Commissioner of the Japan Patent Office (JPO), Mr. Lee Insil, Commissioner of the Korean Intellectual Property Office (KPO), and Ms. Kathi Vidal, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (USPTO), respectively, led delegations. Lisa Jorgenson, Deputy Director General of the World Intellectual Property Organization (WIPO), attended the meeting as an observer on behalf of Director General Daren Tang.

The meeting passed and issued the *2022 IP5 Joint Statement*. The Joint Statement celebrated the tenth anniversary of industrial circle participation in the IP5 Offices Cooperation, summarized the important achievements of the IP5 Offices Cooperation over the past ten years, and clarified the future cooperation priorities of the IP5 Offices and the industrial circle.

Shen Changyu pointed out that in the past year, colleagues of the five Offices have worked hard to overcome the impact of COVID-19, continued to maintain close collaboration, and promoted new and important progress in the five Offices' cooperation. In the face of the current instability and uncertainty in global development, the implementation of the UN Sustainable Development Agenda has become even more important. IPR are an important support to stimulate innovation, promote openness and development, and play an important role in advancing the realization of the agenda. China is willing to work with other countries to strengthen solidarity and cooperation, join hands to address challenges and jointly promote the implementation of the UN Sustainable Development Agenda.

At the IP5 Heads of Office and IP5 Industry Meetings on June 8, all parties held in-depth discussions on the role of IP in promoting the UN Agenda for Sustainable

Development and highlighted the potential of IP in addressing global economic and social challenges. The five Offices and industry agreed to strengthen partnerships to achieve future sustainable development goals.

At the meeting, Shen Changyu introduced China's successful practice of relying on IP to promote sustainable development, citing Zhangjiakou's green, healthy and sustainable development mode through scientific and technological innovation as an example. Patent Protection Association of China organized 15 Chinese enterprises, including Huawei and BYD, to attend the conference. China Three Gorges Corporation and other enterprises spoke at the meeting on behalf of Chinese industry, actively expressing the demands and expectations of Chinese industrial circle.

Lu Pengqi, Deputy Commissioner of the CNIPA, participated in the above conference.

The full text of the Chinese version can be accessed at:

https://www.cnipa.gov.cn/art/2022/6/16/art_53_176059.html?bsh_bid=5805824941

Statistics on China's Intellectual Property-Related Work in the First Half of 2022 were Released

On July 12, the State Council Information Office held a press conference in Beijing on the statistical data of intellectual property-related work in the first half of 2022. The data showed that by the end of June this year, China had 3.906 million valid invention patents, 40.545 million valid registered trademarks, more than 19,000 market entities approved to use special geographical indications, and 74,000 applications for registration of integrated circuit layout designs. At present, the development trend of China's intellectual property rights has been steady and the quality has been improved.

At the meeting, Hu Wenhui, Deputy Commissioner of the CNIPA, introduced that this year, in the face of the complex external environment and the severe epidemic prevention and control situation, the CNIPA adhered to the principle of seeking progress while maintaining stability, and has introduced a series of policy measures to help enterprises to alleviate difficulties and stimulate innovation, and to promote the high-quality development of IP work.

The trend of IP creation is stable. In the first half of the year, affected by the COVID-19 and other factors, domestic patent, trademark, integrated circuit layout design and other IP applications showed a trend of decreasing first but then increasing, and were generally stable. In Shanghai, for example, the patent application for invention in June reversed the decline in the previous period, and the month-on-month data rebounded.

Domestic enterprises have strong innovation vitality. By the end of June 2022, China's domestic enterprises with valid invention patents reached 325,000, up 20.3% year-on-year; 2.107 million valid invention patents owned, up 22.0% year-on-year, higher than the national average growth rate of 4.5 percentage points. Among them, there are 155,000 high-tech enterprises and "small giant" enterprises with 1.334 million valid invention patents, up 23.4% year-on-year, generating 63.3% of the valid invention patents of domestic enterprises with 47.8% of the number of domestic enterprises, maintaining strong innovation vitality.

The full text of the Chinese version can be accessed at:

https://www.cnipa.gov.cn/art/2022/7/13/art_53_176536.html?bsh_bid=5805824561

***CNIPA Commissioner Shen Changyu Led Delegation to the 63rd
Series of Meetings of the Assemblies of the Member States of
WIPO and Delivered General Statement***

From July 14 to 22, 2022, the 63rd series of meetings of the Assemblies of the Member States of the World Intellectual Property Organization (WIPO) was held in Geneva, Switzerland. Mr. Shen Changyu, Commissioner of the China National Intellectual Property Administration (CNIPA), led the Chinese delegation to the meeting and delivered a general statement via video.

Shen Changyu introduced the latest progress of China's IP development. He said that China released a *15-year Plan (2021-2035) on the Development of Intellectual Property Rights (IPR) Power* in September 2021, making a major top-level design for the development of the IP system in the next 15 years. On February 5 this year, China also acceded to the *Hague Agreement Concerning the International Registration of Industrial Designs* and the *Marrakesh Treaty* on copyright, which fully reflects China's support to multilateralism, unwavering stand in further opening up and reform, resolute determination in enhancing IP protection, continuously refinement of the climate for doing business and innovation.

The Chinese delegation was composed of members from the CNIPA, the Ministry of Foreign Affairs, the National Copyright Administration, the Permanent Mission of China in Geneva and the Intellectual Property Department of the Hong Kong Special Administrative Region of China. The All-China Patent Attorneys Association and CCPIT attended the meeting as observers.

The full text of the Chinese version can be accessed at :
https://www.cnipa.gov.cn/art/2022/7/20/art_53_176687.html?bsh_bid=5805823787

China National Intellectual Property Administration Held a Press Conference on "The Development of China's Intellectual Property

in the Last Ten Years"

On October 9, 2022, China National Intellectual Property Administration (CNIPA) held a special press conference on "The Development of China's Intellectual Property in the Last Ten Years" in Beijing as its regular press conference in October to introduce the historic achievements and changes in China's intellectual property undertakings since the 18th CPC National Congress.

Hu Wenhui, member of the Party group and Deputy Commissioner of CNIPA, summarized in the press conference that in the past ten years, intellectual property has helped optimize the business environment, stimulate innovation and creation, support economic and social development, and advance opening-up more vigorously, laying a more solid foundation for China's intellectual property development. In 2021, the Outline for Building an IP Powerhouse Country (2021-2035) and the National Plan for the Protection and Utilisation of Intellectual Property Rights During the 14th Five-Year Plan Period were issued successively, marking that China's intellectual property cause has entered a new stage of development. To achieve the grand goal of building a country strong on IPR, the CNIPA will diligently implement the key tasks, properly handle the five major relationships, and fully ensure the supply of talents for building a strong IPR country, and promote the work of IPR to a new level.

At the conference, Ge Shu, Director-General of the CNIPA's Strategic Planning Department, Zhang Zhicheng, Director-General of the CNIPA's Intellectual Property Protection Department, Lei Xiaoyun, Director-General of the CNIPA's Intellectual Property Utilization Promotion Department, and Wang Peizhang, Director-General of the CNIPA's Public Services Department, answered reporters' questions on the work and achievements in intellectual property creation, protection, application, and the reform to "streamline administration and delegate power, improve regulation, and upgrade services".

The full text of the official release in Chinese can be accessed at:

<https://www.cnipa.gov.cn/col/col3071/index.html>

Part III. Voice from the Business

For this part, we interviewed DHgate and Wufangzhai. DHgate is China's leading B2B cross-border e-commerce platform, with more than 2.4 million cumulative registered suppliers and more than 46.6 million suppliers around the globe. Wufangzhai started in 1921 and was recognized as a well-known trademark in 2004, and it was awarded as one of the first batch of "China Time-honored Brands" enterprises, and it has established a total of 478 stores until the end of 2021.

In our interview, DHgate discussed with us on the following issues: its business scale and development model, its brand story and how it evaluated the recent changes and requirements in terms of IPR protection in China for e-commerce legislation and regulation.

"Wufangzhai" introduced the company's intellectual property layout at home and abroad. Taking itself as an example, "Wufangzhai" elaborated the vital relationship between intellectual property protection and business operations. Also, it introduced that the amendment of the Trademark Law and relevant regulations had guided the company to deal with trademark infringements in the market.

Q: As the world's leading cross-border e-commerce export platform, what is the business scale and development model of DHgate?

A: DHgate is China's leading B2B cross-border e-commerce online transaction service platform. With the mission of "promoting global commerce and achieving entrepreneurial dreams" and the vision of "making everyone participate in global trade", DHgate focuses on the small-scale B2B track and provides small and medium-sized enterprises in the cross-border e-commerce industry chain with "store operation, traffic marketing, warehousing and logistics, payment finance, customer service and risk

control, customs inspection and taxation, business training” and other full-chain empowerment, to realize “buy globally, sell globally”.

DHgate currently has more than 2.4 million registered suppliers, and more than 46.6 million registered buyers, covering 223 countries/regions around the world, with global business offices in North America, Latin America, Europe and other places. DHgate has strong supply chain advantages, AI big data empowerment, and a full set of contract fulfillment services. (Unlike many cross-border SaaS e-commerce platforms with a single service model, MyShop understands that to serve new entrepreneurs well, it must provide a full chain of services for store building, product selection and fulfillment)

Q: What systems, measures or technical means does DHgate take to combat counterfeiting?

A: DHgate has now formed a relatively complete intellectual property risk control system, which is mainly divided into four modules: active prevention and control system, response mechanism, brand cooperation and merchant education.

The active prevention and control system includes a review process before products are put on the shelves, using DHgate's self-developed keyword thesaurus, similar-image model system and third-party image tools. After products are put on shelves, some products will be reviewed manually again. In addition, DHgate also cooperates with third-party professional scanning company, which sends back scanning report and results every week. For infringing products detected through scanning, the platform will remove the links or pages.

DHgate's response mechanism is composed of two modes: online and offline. An online IP complaint handling system was set up, enabling paperless submissions and handling of complaints. DHgate also established a brand cooperation mechanism, which include a swift complaint handling channel for cooperative brands, access to bring suggestions

by cooperative brands on the platform's IP protection, IP protection reports for brands on a regular basis, etc.

Last but not the least, DHgate constantly promotes IP-related knowledge to sellers through brand announcements and presentation, and regularly organizes online or offline training.

Q: As a Chinese local cross-border e-commerce platform company, in DHgate's opinion, could you please comment on the latest changes of laws and regulations in terms of IPR protection in China?

A: On August 31, 2018, E-Commerce Law of the People's Republic of China was officially implemented, of which the Article 41, 42, 43, 44, 45 are related to IP protection. These articles further regulate and clarifies the "safe harbor principle", which, in our view, provides a legal basis for the protection of IP in e-commerce.

Article 36 of Tort Liability Law in effect at the time (later replaced by the Liability for Tort Part of the Civil Code) stipulates obligations of network service providers in the protection of IPR. E-commerce platform operators, as network service providers, are therefore subject to the regulation of Article 36. The third paragraph of the Article regulates that, "a network service provider who knows that a network user has used its network service to infringe the civil rights and interests of others while takes no necessary measures to prevent further infringements shall take jointly and severally liability with the network user." However, the content of the provision did not specify the situation where the network service provider "should have known" the existence of the infringement. This blank was later filled in with the promulgation the E-Commerce Law of the People's Republic of China. According to Article 45 of E-Commerce Law

of the People's Republic of China, if an e-commerce platform operator "should have known" that an operator in the platform infringes IPR, it is obliged to take necessary actions to prevent such infringement. Thus, the responsibility of the platform to improve the IP protection system is further clarified.

Another change we would like to mention is the introduction of punitive damages, which is the possible consequence of making false complaints to e-commerce platforms in bad faith. According to the third paragraph of Article 42 of the E-Commerce Law, an IP right holder who notifies the e-commerce platform in bad faith, falsely claiming infringement and causing losses to the operators, shall bear double compensations. In recent years, malicious complaints against operators in e-commerce platforms have seriously affected the normal daily operation of e-commerce platforms. The introduction of punitive damages at the legislative level will play a positive role in discouraging malicious complaints and promoting the healthy development of e-commerce platforms.

We can see that the E-commerce Law of the People's Republic of China is also in the process of continuous improvement. We believe that relevant IP protection rules will be more mature and sophisticated, and we are looking forward to these changes.

Q: As one of the first “China Time-honored Brands” recognized by the Ministry of Commerce, could you please briefly introduce the brand story of your company?

A: “Wufangzhai” started in 1921 and was recognized as a well-known trademark by the Trademark Office of China National Intellectual Property Administration in 2004. The company is one of the first batch of “China Time-honored Brands” enterprises, the company’s production method of *zongzi* (glutinous rice dumpling) originates from the traditional craftsmanship that has been passed down for centuries. Its production techniques were included in the third batch of national intangible cultural heritage list by the Ministry of Culture in 2011. The company has been awarded as national and provincial honorary titles such as “National Key Leading Enterprise of Agricultural Industrialization”, “National Staple Food Processing Industry Demonstration Enterprise”, “Zhejiang Green Enterprise”, and “Zhejiang Top Ten Characteristic Agricultural Products Brands”.

The company has formed a product group including *zongzi*, mooncakes, sweet dumplings, pastries, egg products, other food products. It has two production bases in Jiaxing and Chengdu, and has established an omnichannel marketing network covering commerce, chain stores and e-commerce nationwide. As of December 31, 2021, the company has established a total of 478 stores through direct operation, cooperative operations, franchises, and distribution.

Q: Could you briefly introduce how your company safeguard your IPRs at home and abroad?

A: “Wufangzhai” was founded in 1921. The company has always attached great importance to the protection of intellectual property rights.

The trademark “Wufangzhai” was first registered in Class 30 in 1988, and was recognized as a “well-known trademark” by the Trademark Office in 2004. After being designated as a “well-known trademark”, the company successively filed more than

350 oppositions, review of adjudication on opposition, and invalidation declarations against similar trademarks such as “Gufangzhai” and “Jiufangzhai”.

With the development of international trade, the company has successfully registered “Wu Fang Zhai” word trademark and graphic trademark in 8 countries and regions such as Japan, the United States, the European Union and 11 countries in Madrid International since 1999. Since 2010, the company has implemented the strategy of global trademark registration, and has successfully registered a number of trademarks in 25 overseas countries and regions (including 3 international registrations in Madrid, covering 45 countries and regions).

As of December 31, 2021, the company and its subsidiaries have a total of 622 domestic registered trademarks and 58 overseas registered trademarks, and has been granted 149 patents, including 17 invention patents and 132 utility models. The company owned a total of 1 computer software copyright and 17 works copyrights.

Q: How does your company understand the relationship between intellectual property protection and business operations?

A: Intellectual property rights are very important to business operations. Protecting the intangible assets of the company is conducive to protecting the corporate image, which can better keep the company maintain competitiveness in the complex business environment. The brand history of Wufangzhai is a typical example.

Historically, there were once many shops with the name “Wufangzhai” throughout the country, among which the most famous ones are Zhejiang Wufangzhai (famous for its *zongzi* products) and Wuhan Wufangzhai (famous for its sweet dumplings products). Besides these two, there were also “Wufangzhai” in Shanghai, Suzhou and other places.

In 1988, Wufangzhai Zongzi Store of Jiaxing Food Service Company (restructured as “Zhejiang Wu Fang Zhai Industrial Co., Ltd.”, referred to as “Zhejiang Wu Fang Zhai”)

obtained the “Wufangzhai” registered trademark in class 30 “zongzi”. In 1994, Wufangzhai Restaurant in Jiang’an District, Wuhan City (restructured as “Wufang Wufangzhai Food Trading Co., Ltd.”, referred to as “Wuhan Wufangzhai”) obtained the registered trademark of “wufangzhai” in class 42 “restaurants and snack bars”. While, the other “Wufangzhai” stores in Shanghai and Suzhou did not register any trademarks of “Wufangzhai”.

Zhejiang Wufangzhai, after registering the trademark of “Wufangzhai”, has developed into an enterprise group, and acquired all the shares of Wuhan Wu Fang Zhai in August 2014. Since then, the legal obstacle to use “wufangzhai” service trademark was cleared. In comparison, Wufangzhai in Shanghai, Suzhou and other places cannot use the “Wufangzhai” trademark for expanded reproduction, and can only continue production within its original scope of use.

Q: In recent years, China has amended many intellectual property laws and regulations. How do you feel about this?

A: The country’s amendment of laws and regulations on intellectual property highlights the importance attached to IP protection. Taking the amendment of the Trademark Law as an example, the amendment of Article 63 serves as a direct guide for our company to deal with trademark infringements in the market. Firstly, it increases the multiple of punitive damages and the amount of statutory damages. Secondly, it further regulates that commodity with counterfeit trademarks shall not enter into commercial channels with merely the counterfeit registered trademarks removed, which effectively maintaining the fairness of the business environment.

Q: In recent years, China has adopted a number of measures to strengthen the “full chain protection” of intellectual property rights, and improve the protection system from the aspects of review and authorization, administrative enforcement, judicial protection, arbitration and mediation, industry self-discipline, etc. What are the feelings and experience of your company as a business entity?

A: In September 2021, the General Office of the China National Intellectual Property Administration issued the “*Reply on whether the act of unauthorized re-packaging of goods of others and subsequent selling of the goods still labeling the registered trademarks constitutes infringement*”. The reply clearly defines the act of purchasing *zongzi* from Wufangzhai Company in bulk, and then labeling the registered trademark of Wufangzhai Company and selling them after re-packaging them in gift boxes as “the act of causing other damage to the exclusive right to use a registered trademark” as stipulated in Item (7) of Article 57 of the Trademark Law. This conclusion solves the problems that have troubled our company for many years, and enables us to have a very favorable basis for reporting and litigation in subsequent infringement cases.