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General Principles of the Civil Law Take Effects as of October 1, 2017

The General Principles of the Civil Law has been promulgated on March 15, 2017 by Decree No. 36 of the President of China and taken effects as of October 1, 2017. It replaces the previous legislation from 1987 as the current basis for governing civil activities.

The General Principles meet with the need of social development and the trend of economic change, and provide elaborations and additions in the areas such as, the protection of personal information, the manners of expressing meanings. It now covers more comprehensive aspects of civil activities.

So what are the changes in connection to intellectual properties?

First of all, the scope of intellectual property protection is refined, from copyrights, patents, trademarks, rights of discovery, etc. to eight categories constituting a wider range. The specific provisions are as follows:

Article 123 the civil subjects shall enjoy intellectual property rights according to law.

Intellectual property rights are the exclusive rights of the right holders on the following objects according to law:

- (1) works (copyrights);
- (2) inventions, utility models and designs;
- (3) trademarks;
- (4) geographical indications;
- (5) trade secrets;
- (6) integrated circuit layouts;
- (7) new varieties of plants;
- (8) other objects prescribed by law.

This change represents the scopes stipulated in the intellectual property rights laws and regulations and reflects the position of the Civil Law as the higher law.

Another change lies in the adjustment of statute of limitations: the new Civil Law has cancelled the provisions with the statute of limitations of one year, revised provisions with the statute of limitations of two years to three years. That is to say, a right holder of an intellectual property can bring a infringement lawsuit within three years from the date of infringement. The specific provisions are as follows:

Article 188 the limitation of action regarding applications to a people's court for protection of civil rights shall be three years. Where otherwise stipulated by law, such provisions prevail.

A limitation of action shall begin when the entitled person knows or should know that his rights have been violated. Where otherwise stipulated by law, such provisions prevail. However, the people's court shall not protect his rights if 20 years have passed since the infringement; under special circumstances, the people's court may extend the limitation of action.

On the whole, the new General Principles adapt to the latest demands of the society, and adjusts the rights and obligations between civil subjects for the purpose of safeguarding fairness and justice.

<http://afdip.com/index.php?ac=article&at=read&did=3>
[071](#)

New Drugs Guidelines Promise Big Progress in Use of Generics

The State Council released guidelines on reforming new drug approval procedures, addressing ways to boost innovation of drugs and medical equipment.

Currently, there are more than 4,000 pharmaceutical companies in China producing generic drugs. Competition between them used to be unregulated and the products quality was sometimes unsatisfactory.

The guidelines propose the concept of a pharmaceutical patent linkage system, involving a combination of drug registrations and patents, where the CFDA is responsible for registration of medicines, while the State Intellectual Property Office (SIPO) handles patent applications.

The guidelines suggest pilot programs for compensation for patented drug developers during the administrative approval procedure for new drugs, to deal with the problem that the longer the approval process takes, the longer the delay will be for the launch of new drugs onto the market, and the closer to the expiry of the patent - reducing the revenues due to the drug companies and patent owners.

The guidelines also call for a certain period of protection from wider commercial use for the drug developers' experimental data and research.

In addition, the government will periodically release a list of drug patents that are no longer valid, to guide drug companies in the production of generics.

Those new measures were first defined in developed markets - including the US, Japan and Europe, in the 1980s and 1990s - to facilitate innovation in drug management. Implementation of them in those markets was successful and stimulated the production of generic drugs.

http://english.sipo.gov.cn/news/iprspecial/201710/t20171013_1319263.html

MOFCOM is Promoting IPR Protection at Exhibitions

On October 3, Xian Guoyi, Director-General of Service Trade and Commercial Service Industry under MOFCOM accepted an online interview and indicated that "IPR is extremely important to the brand development in the exhibition sector, and MOFCOM is actively promoting the IPR protection at exhibitions".

"Exhibition is a platform for the concentrated release of new technology and new products. And, the IPR protection is significant to the brand influence and sustainable development of an exhibition," Xian Guoyi indicated.

In 2006, MOFCOM and relevant authorities jointly issued Measures on IPR Protection at Exhibitions. In the work related to exhibition administration, the commercial authorities strictly require that the exhibition sponsors should ensure exhibit quality and IPR protection. For every exhibition, an IPR protection plan should be formulated. The sponsors should set up an IPR protection office to strengthen rights protection and assistance, accept complaints and deal with the arising problems in a timely manner.

Xian Guoyi emphasized that "the protection of exhibition names and logos is also an important part to promote the exhibition brands. As the exhibition industry involves the application of many new products, technology and models, IPR protection is of significance. MOFCOM is making more efforts on IPR protection in this regard by supporting and encouraging the exhibition enterprises in developing and utilizing such intangible assets as name, logo and goodwill of exhibition in the forms of patents and trademarks so as to improve the creation, utilization and protection of IPRs". Since the 18th CPC National Congress, the Chinese exhibition enterprises have been raising their awareness of patent protection. From 2012 to 2016, patented technologies at exhibitions kept a steady and rapid increase in number.

For our advice on a successful IPR protection at exhibitions, please refer to our previous article [Tackle IP Infringement on Exhibitions in China](#).

<http://www.chinaipr.gov.cn/article/centralgovernment/201710/1912204.html>

SPP: Online IPR-Infringing Crimes Will Be Firmly Punished

On October 16, the Supreme People's Procuratorate (SPP) held a press conference. Wang Songmiao, press spokesperson indicated that next, the procuratorates nationwide will enhance the study on key and difficult issues in the field of Internet governance and intensify the punishment on cybercrimes according to the laws so as to defend the national and individual information security and promote the law-based and regular Internet governance.

- Study in-depth the new characteristics of cybercrimes;
- Study and formulate evidence guidance system, improve case guidance and effectiveness of law application;
- Engage in social efforts on Internet governance and improve the governance capability and level to prevent and keep under control the cybercrimes; and
- Enhance international legal assistance and establish the information sharing and training mechanism to improve the international governance on cybercrimes.

<http://www.chinaipr.gov.cn/article/centralgovernment/201710/1912201.html>

SIPO-IPOS PPH Pilot Program Extended for Two Years

The SIPO and the Intellectual Property Office of Singapore (IPOS) mutually decided to extend the SIPO-IPOS PPH pilot program for another two years from September 2017 to August 31, 2019.

A PCT-PPH cooperation model was added to the extended PPH pilot program. This new model allows applicants to use PCT international application results for filing PPH requests to SIPO and IPOS, relevant requirements and procedures of which are subject to the newly updated SIPO-IPOS PPH Guidelines.

SIPO and IPOS launched a PPH pilot program on September 1, 2013, which was extended for two years from September 1, 2015 to August 31, 2017.

http://english.sipo.gov.cn/news/official/201709/t20170926_1318906.html

WIPO Translation Tool Now Supports 10 Languages

The artificial intelligence-based machine translation tool for patent documents developed by the World Intellectual Property Organization, WIPO Translate, has extended its coverage to 10 languages.

The online tool is now able to translate patent documents in one of the official languages of the Patent Cooperation Treaty - Arabic, Chinese, German, Spanish, Portuguese, Russian, French, Korean and Japanese - into English and vice-versa.

A WIPO news release said the tool is trained exclusively with huge amounts of patent texts and includes a "domain-aware-technique", which translates according to the specifics of the invention. The tool internally integrates 32 technical domains taken from the International Patent Classification to eliminate ambiguity in the translation process.

The specificity of neural machine translation compared to previous phrase-based statistical methods is that it produces more natural word orders, with particular improvements seen in so-called distant language pairs, such as Japanese-English and Chinese-English.

http://english.sipo.gov.cn/news/iprspecial/201709/t20170928_1319024.html