

Table of Contents

AFD China Received Good Feedbacks in the 2019 Client Satisfaction Survey	1
Trademark Office Fees Reduced	1
IP Examination to Be Accelerated.....	1
New Progress Made in Electronic Communication of Madrid Trademark Registration in China.....	2
Filing Numbers Down But Registrations Up	2
IP Court of SPC Will Launch Circuit Trial.....	2
The National Guidance Center on Handling of Overseas IPR Disputes Established	3
China Sees Rapid Progress in IP Utilization.....	3
Customs Focus on Crackdown on Export of Infringement Products	3
Japanese Company's Trademark Application Involving Foreign Letters Denied for Lack of Distinctiveness.....	4
LV Awarded Well-Known Mark, Upending Out-of-Class Free Rider	5

AFD China Received Good Feedbacks in the 2019 Client Satisfaction Survey

AFD China recently launched a new round of client satisfaction survey, in which evaluation on various aspects of our services, such as responsiveness, content, quality, practicability and alignment of demand were covered.

Meantime, we also designed a special section to introduce the progress and achievements made by AFD China this year, hoping to take this opportunity to enhance the clients' understanding of our firm.

Clients from different fields, of different sizes, and in different needs were randomly picked as the recipients to complete the questionnaire, in order to obtain a relatively comprehensive survey result.

As a result, the overall satisfaction with AFD China' services scores 95 points on a 100-point scale, and the service satisfaction scores 97 points, and we are also recognized in specific aspects of our services, such as understanding clients' needs, processing time of works, recommendation on office action responses, and quality of translations.

Here we would like to express our sincere gratitude to every client, applicant, or associate who participated in this survey. We will carefully consider your kind suggestions and act in line with them as appropriate.

<http://afdip.com/index.php?ac=article&at=read&did=3417>

Trademark Office Fees Reduced

The Trademark Office (TMO) of the National Intellectual Property Administration (CNIPA) has reduced administrative fees for some of its services, starting this month. A trademark registration extension fee has been slashed in half, from 1,000 yuan to 500 yuan. An application for changing items related to a registered trademark previously cost 250 yuan, but now is 150 yuan.

<http://english.ipraction.gov.cn/article/News/201907/20190700222577.shtml>

IP Examination to Be Accelerated

In a recent the State Council's executive meeting set goals to shorten the time needed for reviewing applications of high-value patents to within 17.5 months, and the average review period for trademark registration to within five months, by year's end.

Smart systems of patent examination and trademark registration will be developed at a faster pace. The quality of IPR registrations will also be improved.

The meeting decided to facilitate the formulation and improvement of criteria for determining, checking and verifying infringements and counterfeiting of patents, trademarks and copyrights.

<http://english.ipraction.gov.cn/article/News/201907/20190700223717.shtml>

New Progress Made in Electronic Communication of Madrid Trademark Registration in China

China's self-developed electronic document-sending system for the post-registration formalities of the Madrid Trademark International Registrations is now comfortably transmitting during its first-month operation, having successfully delivered 124 documents to the World Intellectual Property Organization (WIPO) as of now. The IT system is another key milestone in electronic communication between China and the Madrid system since the online debut of the Madrid filing system on June 21, 2018.

With its ever-improving business environment, China has been the most desired destination for international trademark applications for territorial extension. In the first five months of the year, the Madrid international trademark applications from China were 2,259, ranking the third among Madrid Union members. Online applications logged at 1,885, accounting for 83.44%. The international notice time for foreign enterprises to handle post-registration formalities including trademark transfer, cuts and partial cancellation is reduced by more than a month. And the examination pendency for trademark transfer shortened to three months and that for trademark modification and renewal to one month.

<http://english.cnipa.gov.cn/news/officialinformation/1140301.htm>

Filing Numbers Down But Registrations Up

China saw a decrease in applications for invention patents and trademark registration during the first six months of 2019. The number of invention patent applications reached 649,000, down 9.4 percent year-on-year, and trademark filings numbered 3.44 million, a decrease of 4.1 percent over the same period last year.

Though the applications saw a decrease, a total of 238,000 invention patents were granted from January to June, an increase of 9.9 percent year-on-year, and the number of new trademarks surpassed 3.5 million during the same period, up 67.8 percent. 229 geographical indication trademarks were granted and 116 companies were authorized to use GI products.

Also during the six-month period, the CNIPA accepted 24,000 international patent filings via the Patent Cooperation Treaty, up 4.9 percent year-on-year. Foreign applications for Chinese invention patents reached 78,000, up 8.6 percent year-on-year; foreign trademark filings in China numbered 127,000, which was a 15.4 percent increase over the same period last year.

In addition, projects involving patent-collateralized loans reported an increase of 33 percent year-on-year. Of these, projects with loans worth less than 10 million yuan (\$1.45 million) accounted for 68.6 percent.

<http://english.ipraction.gov.cn/article/News/201907/20190700223056.shtml>

IP Court of SPC Will Launch Circuit Trial

The Supreme People's Court (SPC) will set up a specific circuit trial system to hear IP cases at the local courts or the original courts for case handling, with an aim to make it easier for the parties involved to bring litigations and to promote the legal publicity about IPR. The implementation will be launched in the second half of 2019.

Over half a year of operation, the IP Court of the SPC adopted such cutting-edge technology as AR glasses, voice identification system, e-signature system and e-file retrieval system for case hearing. The database of judgement rules centered on the specific law-applicable rules was initially established to include the portfolio of main judicative paper about technical cases over a decade by way of summarizing keywords and abbreviation of adjudication. It is identified that the cases

heard by collegiate bench must be under retrieval. Unless by special procedure, the cases shall not conflict with the prior cases, so as to avoid the different judgement over the same kind of cases to some extent. In the future, the database will be further improved.

<http://english.ipraction.gov.cn/article/News/201907/20190700222764.shtml>

The National Guidance Center on Handling of Overseas IPR Disputes Established

China set up the National Guidance Center on Handling of Overseas IPR Disputes in July. As approved by the IP Protection Department of CNIPA, the center focuses on the existing difficulties in handling of overseas IP disputes to set up a national-level information collection and distribution channel for overseas IP disputes, establish the guidance and assistance mechanism for Chinese enterprises confronting with overseas IP disputes and improve their prevention and control awareness and capabilities of dispute resolution.

<http://english.ipraction.gov.cn/article/News/201907/20190700223526.shtml>

China Sees Rapid Progress in IP Utilization

The Intellectual Property Development and Research Center under the China National Intellectual Property Administration (CNIPA) issued an evaluation report on China's IP developments. According to the Report, China's IP utilization index reached 234.8 in 2018, an increase of 28.5% over 2017.

The total amount of patent and trademark pledge financing amounted to 122.4 billion yuan in 2018, a year-on-year increase of 12.3%. As of the end of 2017, 367,586 technical contracts were signed nationwide, with a turnover of 1,342.422 billion yuan, a year-on-year increase of 14.7% and 17.7%; software business exports were registered at 54.1 billion US dollars, an increase of 8.3%; the total volume of China's IP royalties reached US\$33.3 billion, a year-on-year

increase of 32.6%. The number of patent application rights and of patent rights transferred has increased significantly from 2010 to 196,000; the number of trademark transfers has increased from 64,000 to 362,000; the value added of core copyright industry to GDP has increased from 3.52% in 2010 to 4.61% in 2017.

According to the Report, among the 40 countries, China surpassed Denmark, New Zealand, Singapore, Finland, and the United Kingdom in terms of the level of IP development, rising from the 13th to the 8th in the world rankings in 2017.

<http://english.cnipa.gov.cn/news/officialinformation/1140504.htm>

Customs Focus on Crackdown on Export of Infringement Products

According to General Administration of Customs, the customs nationwide have launched the special operation on IPR protection, called "Longteng Action 2019". During the action, the customs will strengthen law enforcement coordination with relevant local departments to enhance the supervision over the infringement products going abroad in an all-around manner, with a focus on consumer electronic products, auto parts, personal-care products, garment, bags and shoes. More efforts will be made on protecting the well-known brands of multinationals and domestic export enterprises leading in IPR to enhance the confidence of foreign enterprises on investing in China.

As is learned, the special operation will start from July 1 and last for 6 months. During the action, the customs will center on the well-known brands of multinationals and the domestic export enterprises leading in IP to provide key protection, continue the cultivation and enhance the rectification over industrial IPR infringement acts.

<http://english.ipraction.gov.cn/article/News/201907/20190700222581.shtml>

SUPPLEMENT ISSUE
(Case Briefs)

Japanese Company's Trademark Application Involving Foreign Letters Denied for Lack of Distinctiveness

Over the No.20825877 "CHLO-ROPHYLL TEA-LEAF and figure" (trademark in dispute) trademark application case, Beijing High People's Court made a final judgment recently.

The trademark in dispute was filed by Nikko Pharmaceutical Company on August 1, 2016, certified to be used on Class 3 products, such as facial cleansers, wrinkle creams, acne creams, hair restorers and cosmetics. After examination, the Trademark Office (TMO) under the former State Administration for Industry and Commerce held that the trademark in dispute used on the designated products such as cosmetics directly reflects their materials, lacking distinctiveness required for being a trademark. Accordingly, the TMO decided to reject the application for registration.

Nikko Company filed a reexamination request to the former Trademark Review and Adjudication Board (TRAB), but suffered one more set-back on April 26, 2018.

The Company then brought the case to Beijing IP Court, arguing that the trademark in dispute was figure and word combination with distinctiveness and did not directly show the materials of the designated products such as cosmetics. Meanwhile, according to the principle of consistency of examination standard, No.3264287TOMI Chlorophyl (多妮葉綠素 in Chinese) and figure trademark had been registered and the trademark in dispute should be approved.

Beijing IP Court held that "CHLO-ROPHYLL" in trademark in dispute can be translated as a green substance in plants (叶绿素 in Chinese), "TEA-LEAF" the leaf on the tea plant (茶叶 in Chinese) and the leaf figure lacking distinctiveness required for being a trademark. The registration of other trademarks cannot be regarded as the basis for that of the trademark in dispute. The Court rejected the complaint of Nikko Company in the first-instance judgment.

The disgruntled Company then appealed to Beijing High People's Court. After hearing, Beijing High held that the registration of other trade-marks the Company has argued cannot be regarded as the evidence for that of the trademark in dispute. In trademark in dispute, the meaning of the words is similar to that of the figure. The public will take it as the direct description of the materials and ingredients when the trademark in dispute is used on the designated products such as cosmetics, wrinkle creams and acne creams, in-stead of the mark indicating the source of goods. In this connection, Beijing High rendered its final ruling against Nikko Company and upheld the first-instance decision.

<http://english.cnipa.gov.cn/docs/2019-07/20190703091159666129.pdf>

LV Awarded Well-Known Mark, Upending Out-of-Class Free Rider

Louis Vuitton Malletier (LV) had been having a four-year-long rift over No.9291725 trademark "唯依 and its figure" (trademark in dispute) with She Yang Xin'ante Wire & Cable Factory based in Yancheng, Jiangsu.

Recently, Beijing High People's Court made the judgment, holding that although the classes of products certified by the trademark in dispute and the LV trademark were not the same or similar, the LV trademark had enjoyed high popularity on suitcases and bags, and qualified as a well-known mark prior to the registration date of the trademark in dispute. The confusion and misunderstanding among the public had generated by the trademark in dispute. Beijing High revoked the TRAB (Trademark Adjudication and Review Board) decision favoring the trademark in dispute and ordered it to take a de novo look at the case.

In April 2011, Xin'ante filed the registration application for the trademark in dispute to the Trademark Office (TMO) and was approved to be used on the products of Class 9, wires and cables in May 2012. In December 2015, LV lodged an in-validation request, claiming that the trademark in dispute had constituted similarity on similar products with its No. 749782 trademark LV (cited I trade-mark) and copy and imitation of No. 241081 trademark LV (cited II trademark), causing confusion among consumers after registration and use of the trademark in dispute. Meanwhile, LV requested the TRAB to determine cited II trademark to be a well-known mark, and submitted relevant evidence. As shown on sbj.cnipa.gov.cn, cited I was approved to be used on the products of Class 9 in December 2000 while cited II was filed by LV in February 1985, and would be approved to be used on the products of Class 18.

The TRAB made the decision to uphold the registration of the trademark in dispute. LV brought the case to Beijing IP Court. Beijing IP Court revoked TRAB's decision and remanded the case. TRAB appealed to Beijing High People's Court.

After hearing, Beijing High held that the evidence produced by LV could prove the cited II had launched continuous and wide promotion and use before the registration date of the trademark in dispute, achieving high popularity, and under protection as the well-known mark. Therefore, the court determined the cited II to be the well-known trademark certified on the products of wallets. Meanwhile, Beijing High held that the trademark in dispute was formed by the words "LV" and Chinese characters "唯依", and the cited II was formed by "LV". The words "LV" took up a high proportion, constituting distinctive recognition, and the form of "LV" and its combination were similar with the cited II, rendering the highly similarity on the overall look and visual effect. Hence, the trade-mark in dispute constituted the copy and imitation of cited II as a whole.

At this connection, Beijing High rejected the appeal from the TRAB, and upheld the first-instance ruling.

<http://english.cnipa.gov.cn/docs/2019-07/20190717090951006181.pdf>