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China-Bahrain PPH Pilot Program Launched on May 1, 2024

https://english.cnipa.gov.cn/art/2024/5/10/art_1340_192396.html

According to the Memorandum of Understanding on the Patent Prosecution Highway (PPH) Pilot Program between the China National Intellectual Property Administration (CNIPA) and the Ministry of Industry and Commerce (MOIC) of Bahrain, the China-Bahrain PPH pilot program officially starts on May 1, 2024, and will run for five years, until April 30, 2029.

After the launch of the China-Bahrain PPH pilot program, applicants can file PPH requests to the CNIPA according to the "Procedures to File a Request to the CNIPA for PPH Program between the CNIPA and the MOIC". Similarly, applicants can file PPH requests to the MOIC following the "Procedure under PPH pilot programme for filing request to Patent Office at Foreign Trade & Industrial Property Directorate – MOIC – Kingdom of Bahrain".

PPH is a fast track linking patent examination duties of different countries or regions, allowing patent examination authorities to speed up patent examination by work sharing. Since the initiation of the first PPH program in November 2011, the CNIPA has built PPH ties with patent authorities of 32 countries or regions.

CNIPA Announces Joining PPH Improvement Initiative

In a bid to further enhance the user experience of the PPH, the CNIPA has announced joining the "PPH Improvement Initiative", which involves cooperation between the world's five leading intellectual property (IP) offices, namely China, the United States, Europe, Japan and the Republic of Korea. The objective of this initiative is to strive for an average duration of 3 months both from the grant of a PPH request to issuance of a first office action and for an average response time from examiner to applicant, thereby providing PPH users with a more predictable examination cycle.

PPH is a fast track linking patent examination duties of different countries or regions, allowing patent examination authorities to speed up patent examination by work sharing. Since the initiation of the first PPH program in November 2011, the CNIPA has built PPH ties with patent examination authorities of 32 countries or regions.

https://english.cnipa.gov.cn/art/2024/4/18/art_1340_191692.html

CNIPA and USPTO Hold Bilateral Talks and Sign a New Memorandum of Understanding on Cooperation

Shen Changyu, Commissioner of the CNIPA, met with Kathi Vidal, Director of the United States Patent and Trademark Office (USPTO) on April 15 in Beijing. At the meeting, both offices introduced the latest progress of IP work in their countries respectively, exchanged views deeply on issues of mutual concern, and jointly signed a new version of the memorandum of understanding on cooperation between the two offices. CNIPA Deputy Commissioner Lu Pengqi participated in the meeting.

Shen said that IP cooperation is an important area for collaboration between China and the United States. In recent years, the two offices have upheld an open, pragmatic, and mutually beneficial attitude, and actively promoted the continuous development of China-U.S. IP exchanges and cooperation, achieving fruitful results in multiple fields. Last year, Chinese President Xi Jinping and U.S. President Joe Biden laid out the "San Francisco vision", charting the course for the development of China-U.S. relations during their meeting. China has attached great importance to IP cooperation with the United States, and Chinese Vice Premier Ding Xuexiang's meeting with you has strongly guided and promoted the bilateral IP cooperation. Shen hoped that the signing of this memorandum of understanding on cooperation will serve as an opportunity for both offices to jointly promote the deepening of IP cooperation, implement the important consensus reached by the leaders of the two countries, and provide more convenient and efficient services for enterprises and rights holders in both countries.

Vidal noted that the United States highly values IP cooperation with China. The signing of this memorandum of understanding on cooperation has marked a further expansion of bilateral cooperation. She looked forward to continuing to strengthen dialogue and

exchange through multilateral and bilateral channels in the future, promoting mutual benefits, and better serving the innovators of both countries.

Under the framework of the new version of the memorandum of understanding on cooperation, the two offices will further expand areas of cooperation and deepen pragmatic cooperation in information exchange, patent and trademark examination, automation, and industrial outreach.

CNIPA principal officials responsible for relevant departments attended the meeting.

http://english.cnipa.gov.cn/art/2024/4/22/art_1340_191789.html

Shen Changyu Holds Talks with ARIPO DG

On April 8, Shen Changyu, Commissioner of the CNIPA, held bilateral talks with the visiting Bemanya Twebaze, Director General of the African Regional Intellectual Property Organization (ARIPO).

Shen introduced the latest progress in China's IP work to the ARIPO. He noted that the ARIPO is an important partner of the CNIPA in Africa. Since the signing of a cooperation agreement in 2007, the two sides have achieved fruitful exchanges and cooperation in various fields such as experience sharing, capacity building, patent examination and informatization. Shen hoped that on the basis of the long-standing friendly relations, the two sides would further deepen their practical cooperation to provide more high-quality and efficient services for Chinese and African innovators.

Bemanya Twebaze highly praised the achievements China has made in the IP field and thanked the CNIPA for its long-term support for the development of IP undertakings in the ARIPO and its member states. He wished that both sides would further expand their areas of cooperation and achieve more results.

The two sides also exchanged views deeply on other issues of mutual concern and agreed to promptly initiate the PPH pilot program. CNIPA principal officials responsible for relevant departments attended the meeting.

http://english.cnipa.gov.cn/art/2024/4/22/art_1340_191790.html

China Enforces Stricter Punishment for IP Infringement in 2023

On April 22, the Supreme People's Court (SPC) released its report on the "Judicial Protection of Intellectual Property Rights by Chinese Courts (2023)". Data indicates that over the past year, courts nationwide received over 540,000 intellectual property cases, with the number of cases concluded nearly matching new filings, representing increases of 3.41% and 0.13% respectively compared to 2022. This underscores a heightened efforts in safeguarding innovation and creativity. Additionally, the courts rigorously enforced penalties for infringement and counterfeiting, significantly increasing their costs. In 2023, punitive compensation was applied in 319 cases, marking a 117% year-on-year increase, with a total compensation of 11.6 billion yuan, a 3.5-fold increase compared to the previous year.

<https://www.chinaipmagazine.com/en/news-show.asp?id=12889>

"Intellectual Property Protection in China 2023" White Paper Officially Released

The "Intellectual Property (IP) Protection in China 2023" White Paper was officially released recently. The White Paper outlines the progress and achievements of China's IP protection in 2023 from five aspects: protection effectiveness, institutional construction, examination, grant and registration, cultural development, and international cooperation.

In terms of international cooperation, the White Paper highlights China's profound involvement in global IP governance, active

advancement in negotiations related to the Design Law Treaty and diplomatic conference on proposed treaty on intellectual property, genetic resources and associated traditional knowledge, diligent implementation of the agreement between China and the European Union (EU) on geographical indications protection and cooperation, the hosting of China-WIPO 50th anniversary of cooperation and flagship events of National IP publicity week, and the continued strengthening of cooperation on customs enforcement with the EU, Russia, Japan, South Korea, and other countries and regions.

Since 1998, China has been publishing annual white papers on IP protection for more than 20 consecutive years. These documents have become authoritative materials demonstrating the Chinese government's firm stance on strict IP protection, helping domestic and international communities understand the status quo of IP protection in China.

<https://www.chinaipmagazine.com/en/news-show.asp?id=12889>

Huawei Secures Legal Victory in Trademark Dispute over Unauthorized Bluetooth Headphone Sales

Huawei Technologies Co., Ltd. has recently emerged victorious in a legal battle concerning the protection of its trademark rights, according to news released last week.

An online company was found selling bluetooth headphones bearing the "Huawei" brand without authorization, resulting in sales exceeding 9.37 million RMB. In response, Huawei took legal action, alleging trademark infringement and unfair competition against the company. The case was brought before the Longhua District Court in Shenzhen, which ruled in favor of Huawei, ordering the defendant company to pay punitive damages totaling over 1.9 million RMB, representing twice the profit derived from the unauthorized sales.

Huawei holds exclusive rights to several highly recognizable trademarks, including "Huawei" and "华为". Despite lacking authorization from Huawei, the defendant marketed and sold bluetooth headphones adorned with branding that included the above trademarks. Additionally, promotional materials falsely suggested that these headphones were official Huawei products. However, upon investigation, it was revealed that these headphones were not genuine Huawei items.

During the trial proceedings, the defendant encountered difficulties in substantiating its profits from the unauthorized bluetooth headphone sales due to its failure to provide necessary financial records and vouchers. However, both the defendant and Huawei presented evidence from other industry players to support their respective claims regarding profit margins.

Ultimately, the court determined that the defendant's actions constituted trademark infringement and unfair competition, as they infringed upon Huawei's trademark rights and misled consumers.

Given the severity of the infringement and the defendant's persistent disregard for Huawei's complaints, the court deemed it necessary to impose punitive damages. Utilizing sales records and industry profit margins, the court calculated the damages owed and mandated compensation of 1,961,609.44 RMB.

<https://www.chinaipmagazine.com/en/news-show.asp?id=12888>

Lacoste Wins 14.8 Million Yuan in a Trademark Dispute against Cartelo in China

French fashion brand Lacoste has won 14.8 million Yuan in a trademark dispute against its Chinese rival Cartelo, according to an announcement released by Lacoste recently.

According to the announcement, China's Beijing Higher People's Court ruled earlier this

year that Lacoste's crocodile trademark, which looks toward the right, had already achieved well-known status as early as 2006, while Cartelo's use of the crocodile trademark, which looks to the left, had clear intentions of malice and had already caused market confusion, and therefore constituted the infringement upon the legitimate rights and interests of the trademark owned by Lacoste.

The court ordered Cartelo and its parent company Nanji E-Commerce to cease the infringing activities in China and pay 14.8 million Yuan to Lacoste in compensation.

Initiated in 1927, the Lacoste trademark was authorized for registration in 1933 in France and achieved trademark registration in 1980 within China. Over time, the French brand has gained wide recognition in the Chinese market.

Cartelo was established in Singapore in 1947 and expanded into the Chinese market in 1993. In 2016, the company was acquired by Nanji E-commerce.

The two sides have been locked in trademark disputes since at least 2003.

During the initial stages of the trademark disputes, Lacoste suffered setbacks in lawsuits against Cartelo.

However, Lacoste continued to fight until it secured the final judgment from the Beijing Higher People's Court earlier this year.

Lacoste said in a statement that it welcomed the judgment, adding that "it not only effectively protected the legitimate rights and interests of Lacoste but also demonstrated the firm determination of Chinese judicial authorities to protect intellectual property rights."

<https://www.chinaipmagazine.com/en/news-show.asp?id=12886>

German Appeal Court Affirms Audi's Trademark Win over NIO's ES6 and ES8 Models

The Munich Higher Regional Court issued a second-instance verdict, affirming that NIO's naming of its two electric vehicle models as ES6 and ES8 constitutes trademark infringement against Audi's S6 and S8. NIO is barred from marketing its products in Germany under the names.

NIO expressed disappointment with the ruling but assured that it wouldn't affect its operations or users. The company said it remains committed to providing advanced electric vehicles and services in Europe. NIO has already rebranded its ES series models as the EL series in the European market to sidestep potential trademark issues, ensuring that actual sales remain uninterrupted.

Whether NIO will appeal the decision remains uncertain.

The dispute between the two sides dates back to June 2022, when media reports indicated that Audi had filed a trademark infringement lawsuit against NIO in the Munich Regional Court. Audi alleged in the lawsuit that NIO's naming of its models as ES6 and ES8, resembling Audi's S6 and S8, could confuse consumers.

In January 2023, the Munich Regional Court ruled in favor of Audi, citing the potential for confusion between NIO's trademarks and Audi's S series models, resulting in NIO being prohibited from selling its products in Germany under the names ES6 and ES8.

NIO later appealed the decision to the Munich Higher Regional Court and renamed its SUV products for the German market.

<https://www.chinaipmagazine.com/en/news-show.asp?id=12892>

China's Industrialization Rate of Patents for Inventions Improves

The industrialization rate of patents for inventions in China further improved last year, said a report from CNIPA on Monday.

The industrialization rate of patents for inventions reached 39.6 percent in 2023, an increase of 2.9 percentage points compared to that of the previous year, and has been staying in a steady growth trend for five consecutive years.

The industrialization rate of patent for invention from enterprise reached 51.3 percent last year, up 3.2 percentage points year-on-year. The figure from large, medium, small and micro enterprises was 51 percent, 57.9 percent, 53.9 percent and 33.8 percent, respectively, representing a rise from the previous year.

The model of industry-university-research cooperation has effectively improved the country's industrialization rate of patents for inventions.

The average profit of patents for inventions from the "industry-university-research" reached 10.33 million yuan (\$1.43 million) per piece, 24.5 percent higher than that of industrialization rate of patents for inventions from enterprises, which reached 8.3 million yuan in 2023.

The model of industry-university-research cooperation plays an important role in tackling key core technologies, with the proportion of enterprises solving key technologies or core components to tackle key issues through the model reaching, at the highest, 56.1 percent, said the report.

The intellectual property protection continues to improve in the country.

In 2023, the proportion of Chinese patentees who have experienced patent infringement was 6.7 percent, down 1.0 percentage points from the previous year.

<http://chinaipr.mofcom.gov.cn/article/centralgovernment/202404/1985470.html>

Courts Crack down on Infringement related IP Cases

Chinese courts have focused more on handling intellectual property cases involving new technologies last year, with harsher punishment against those infringing upon IP rights, China's top court said.

The SPC issued a report on Monday to introduce achievements made by courts nationwide in IP protection.

According to data released in the report, Chinese courts heard more than 540,000 IP cases in 2023, up 3.41 percent year-on-year.

Punitive damages were applied in 319 of the cases, up 117 percent year-on-year, with a total awarded amount reaching 1.16 billion yuan (\$160 million), increased by 3.5 times from the previous year, the data said.

Punitive damage means that defendants should face heavier punishment, such as larger amounts of fines, due to their malicious or severe IP infringements.

"The move is to provide stronger legal protection for IP rights owners by strengthening greater efforts to fight IP rights violators," said Lin Guanghai, chief judge of the top court's No 3 Civil Adjudication Tribunal, a division that specializes in tackling IP cases.

He told a news conference that the punitive damage is also conducive to stimulating innovation and serving high-quality development.

Following rapid growth of new technologies and emerging businesses, Chinese courts attached more importance to dealing with IP cases in the fields of 5G telecommunication, artificial intelligence, biomedical, seed and high-end equipment manufacturing last year, the report said.

In 2023, Beijing Intellectual Property Court concluded 140 lawsuits involving hi-tech, up 35.2 percent year-on-year, it said.

IP tribunals in Hangzhou; Ningbo; and Wenzhou, Zhejiang province, also solved some 2,000 technology-related cases, contributing a lot to promoting local innovation, it added.

<http://chinaipr.mofcom.gov.cn/article/centralgovernment/202404/1985469.html>

Beijing Court Sees Rise in Disputes Involving Digital Economy

Beijing Haidian District People's Court saw a large number of intellectual property disputes regarding digital economy over the past few years, with more efforts undertaken to improve the quality of relevant case to serve the industrial development in a healthy manner.

The court issued a report on Wednesday, showing that its judges concluded 4,840 lawsuits involving digital economy in the past three years, accounting for 56.7 percent of its total IP cases.

"The proportion has indicated the rapid growth of the digital economy and also demonstrated our strong judicial determination to protect IP rights in this field by better handling relevant cases," said Zhang Gong, vice-president of the court.

Yang Dejia, chief judge of the court's No 5 civil adjudication tribunal, noted that the protection of online platform data rights and digital cultural products are major focuses and hot issues in the field, saying that relevant legal research should be enhanced.

"For example, how to regulate improper acquisition and use of platform data and how to seek a balance between data protection and data flow are worthy of attention and research," he added.

While pledging to strengthen the IP protection while helping promote the industrial development, the court also called for government agencies and associations to

form joint efforts to ensure the industry can develop healthily.

<http://chinaipr.mofcom.gov.cn/article/regionalnews/202404/1985466.html>

Chinese Court Imposes over 600 Million RMB Fine and 9-year Sentence on Lego Counterfeiters

On April 22, the Shanghai No. 3 Intermediate People's Court upheld a lower court's ruling in a case of criminal copyright infringement involving Lego sets. The court imposed a fine of 600 million RMB on the defendant company Long XX, while sentencing the principal defendants Chen XX to nine years in prison and a fine of 20 million RMB, and Chen YY to eight years in prison with a fine of 15 million RMB. Other accomplices received sentences ranging from one year and six months to four years of imprisonment, along with corresponding fines.

The court found that between January 2016 and August 2022, the defendant company Long XX illicitly set up departments including design, engineering, production, and sales, without authorization from Lego. Long XX procured genuine Lego products, conducted sampling, molding, injecting, and other processes to replicate Lego products precisely. This involved duplicating the outer packaging and instructions, resulting in exact 1:1 replicas of Lego products.

The principal defendants Chen XX and Chen YY, who are brothers, jointly operated Long XX Company. The company originally engaged in the legitimate production and sale of toys in Guangdong until the brothers discovered the lucrative market potential and substantial profits associated with Lego bricks, prompting them to decide to replicate and sell Lego toy bricks.

Between September and November 2017, Long XX Company was found by the Guangdong Shantou Intermediate People's

Court to have infringed upon Lego Company's rights through the production and sale of Lego toy products. Despite a court order to cease production and sales, Long XX Company continued to replicate, produce, and sell Lego products.

Long XX Company produced and sold over 1,600 models of building block toy products, replicating over forty series of Lego products, with a total sales amount exceeding 1.13 billion RMB. Evidence revealed striking similarities between Long XX's products and Lego's, including brick designs, packaging, and instructions.

The Shanghai No. 3 Intermediate People's Court underscored Long XX's deliberate infringement and the significant financial gains, underscoring the severity of intellectual property crimes. The verdict aimed to deter future infringements and protect the rights of legitimate holders. Thus, the Court affirmed the original ruling made by Shanghai Huangpu District People's Court.

<https://www.chinaipmagazine.com/en/news-show.asp?id=12894>

SUPPLEMENTARY ISSUE

AFD China Recognized as a Recommended Firm in Trademark Prosecution and Trademark Contentious by Asia IP

Recently, renowned intellectual property magazine Asia IP announced the result of its annual patent survey, wherein AFD China was recommended as a Tier 2 firm for its outstanding performance in trademark prosecution and trademark contentious. The result of this survey has been published in the May issue of Asia IP.

AFD China has been participating in the annual surveys of Asia IP for years. Our ranking as a Tier 2 firm in both trademark prosecution and trademark contentious this time is an affirmation of our consistent commitment to providing timely and high-quality services to our clients based on the principle of integrity and good faith. Here, we would like to express our special thanks to all our clients for their trust and support over the years, and to all our colleagues for their strict compliance with the firm's regulations and requirements.

AFD China has always been committed to continuously improving work quality and enhancing the professional capabilities and qualities of the team. We have established a multi-level and multi-faceted management system covering risk control, quality management, training and assessment, and promptly keep up with the progress of regulations, learn practical experience from home and abroad, and apply it to agency practices. We respond promptly to clients' demands, strive to provide comprehensive and forward-looking advice in practical areas such as prosecution and litigation, and seek appropriate and effective solutions to help clients better protect their rights and interests.

This achievement is not only an affirmation of our past efforts, but also a new starting point for our future development. We will focus more on improving our professional capabilities and use our rich experience and expertise to protect your intangible assets.

AFD China Won China IP Awards 2024

Recently, the reputable intellectual property magazine Asia IP released its China IP Awards 2024, announcing the winning Chinese law firms in each practice area.

AFD China, by virtue of its outstanding IP expertise in the fields of technology, media and telecommunications as well as its timely, high-quality and targeted services offered to its clients, was lauded by its clients and honored by Asia IP as one of "Technology, Media & Telecoms Firms of the Year".

As one of the most influential awards in China's intellectual property field, China IP Awards aims to honor IP firms and individuals who have made outstanding contributions to intellectual property protection, innovation, and commercialization. AFD China's standing out among numerous participating firms and winning the honor of "Technology, Media & Telecoms Firm of the Year" for the first time is an affirmation of our firm's unremitting efforts in deeply understanding the characteristics and needs of the technology, media, and telecommunications industries and providing targeted intellectual property protection and rights protection strategies for clients. It is also an encouragement and incentive for our firm's future development. Our firm will continue to uphold the service philosophy of "professionalism, efficiency, integrity, and innovation," constantly improve the quality and level of service, and provide clients with even better intellectual property services.

Here, we would like to express our special gratitude to our clients who have grown up with us over the years. It is your trust that has enabled us to constantly move forward and achieve our success today. The satisfaction of each client is the greatest affirmation of our work and the inexhaustible driving force for us to continuously improve our service quality. In the future, we will continue to uphold the client-oriented service philosophy, listen to your needs, provide professional solutions, and work together with you to create a better future.

Crackdown on IPR Infringement Bears Fruit

Chinese courts at different levels have intensified the crackdown on counterfeiting over the past year, with harsher punishments for intellectual property infringements, in order to further stimulate and protect innovation by the rule of law.

In 2023, courts nationwide handled more than 540,000 IP cases. Among the cases, punitive damages applied in 319, an increase of 117 percent compared with 2022, according to data released on Monday by the SPC, China's top court.

The figures mean that "we've provided stronger protection for IP rights owners by strengthening the battle against IP infringement", Tao Kaiyuan, vice-president of the top court, said on Monday at a news conference in Beijing.

Punitive damages are extra payments awarded by courts when defendants act in a particularly harmful way. This form of punishment has been written into the country's Civil Code, a fundamental law for regulating civil activities.

In an influential case disclosed by the top court, a company and its operator in Sichuan province were ordered to pay over 100 million yuan (\$13.8 million) in compensation, including four times their illicit profits, as punitive damages to Panpan, a renowned security door brand, for malicious use of similar trademarks to confuse consumers while knowing the popularity of the famous brand.

Calling it a landmark case concerning trademark infringement and unfair competition, Lin Guanghai, chief judge of the top court's No 3 Civil Adjudication Tribunal, said: "Punitive damages are a crucial measure for protecting IP rights, which in turn better stimulate innovation and support high-quality development."

While harshly punishing IPR violators, Chinese courts also attached greater importance to dealing with IP lawsuits involving high-tech fields last year, such as 5G communication, quantum technology, artificial intelligence, biomedicine, high-end equipment manufacturing and seeds, Tao said.

She said that these cases strengthened judicial protection of IP rights in key areas, core technologies and emerging businesses, and effectively served and safeguarded technological innovation and industrial upgrading.

In 2023, for instance, Beijing Intellectual Property Court concluded 140 high-tech cases, an increase of 35.2 percent compared with the previous year. IP tribunals in Hangzhou, Ningbo and Wenzhou — three cities in Zhejiang province — also resolved 2,000 lawsuits regarding technologies, the top court said.

On Monday, an activity to create short films related to IP protection was jointly launched by the top court, the China Film Association and the China Federation of Literary and Art Circles.

"The activity aims to encourage filmmakers, especially younger ones, to tell stories about how to protect IP rights through short films," said Deng Guanghui, an official from the association.

The deadline for the activity is July 31, he said, adding that the winners will have an opportunity to attend this year's China Golden Rooster and Hundred Flowers Film Festival to share ideas with more film creators.

<http://chinaipr.mofcom.gov.cn/article/centralgovernment/202404/1985468.html>