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**CNIPA Provides the Definition of High Value Invention Patents**

Ge Shu, Director General of the Strategic Planning Department of China's National Intellectual Property Administration (CNIPA), recently accepted an exclusive interview with Xinhua News Agency and gave answers to how to define high value invention patent.

According to Ge Shu, five kinds of valid invention patents will be included into the statistical range of high-value invention patents:

1. A patent for invention in the strategic emerging industries;
2. A patent for invention having overseas family member patent(s);
3. A patent for invention maintained for more than 10 years after grant;
4. A patent for invention that realizes the higher amount of pledge financing; or
5. A patent for invention that has won the State Science and Technology Award or China Patent Award.

Ge Shu further comments "[i]t is expected that by 2025, China will have 12 high-value invention patents per 10,000 population, which means that China's innovation strength will be greatly enhanced, and the gap between China and developed countries such as the United States and Japan will be further narrowed."

<http://english.ipraction.gov.cn/article/ns/202103/340018.html>

**China Launches Patent Transfer Plan to Support SME Innovation**

China has launched a three-year plan to offer monetary incentives to provincial-level regions that have made achievements in fostering patent technology transfers from small and medium-sized enterprises.

The plan was unveiled in a recent notice jointly released by the Ministry of Finance and the National Intellectual Property Administration. It aims to support SME innovation, helping promote the utilization of their patented technologies and prevent them from lying dormant.

Provinces, autonomous regions and municipalities with well-developed schemes, proper measures, strong execution and outstanding achievements in transferring patent technologies will each be awarded 100 million yuan (about \$15.3 million), according to the plan.

The monetary incentives can be used to further help SMEs acquire and materialize patent technologies and carry out intellectual property pledge financing.

<http://english.ipraction.gov.cn/article/ns/202103/339754.html>

**2020 International Intellectual Property Protection Rankings Released**

The Legal Service Department of China Chamber of International Commerce (CICC) has released the International Intellectual Property Protection Index Report 2020 in Beijing. In 2020, global IPR protection, especially in key monitoring countries, will

overcome the impact of the epidemic and maintain a long-term trend of strengthening IPR protection, reporters from Economic Information Daily learned at a press conference.

According to the ranking of the 10 countries highlighted in the report, Germany, South Korea, Japan, Australia, Brazil, Vietnam, Singapore, Russia, the United States and India are ranked from highest to lowest in the IP protection index.

The report shows that the international intellectual property innovation competitiveness of the key monitoring countries continues to intensify. In areas such as artificial intelligence and 5G information and communications, large multinational companies have accelerated their global presence, and patent and trademark registration applications have maintained an active momentum.

<http://english.ipraction.gov.cn/article/ns/202104/340268.html>

### **Theme of 2021 National Intellectual Property Publicity Week Released**

On the occasion of the 21st World Intellectual Property Day, the Organizing Committee of the National Intellectual Property Publicity Week has decided to organize the National Intellectual Property Publicity Week in 2021 to strengthen publicity and education on intellectual property protection and enhance the awareness of the whole society to respect and protect intellectual property.

The theme of this publicity week is to comprehensively strengthen the protection of intellectual property and promote the construction of a new pattern of development

The event is held on April 20 to 26, 2021.

<http://english.ipraction.gov.cn/article/ns/202103/339994.html>

### **2020 Statistics: CNIPA's Measures Inspire Innovation of SMEs**

In a bid to meet the demands of small and medium-sized enterprises (SMEs), the CNIPA has been deeply implementing SMEs IP strategy promotion projects jointly with the Ministry of Industry and Information Technology and introducing and promoting a series of policies and measures.

In 2020, more than 20,000 SMEs benefited from the IP trusteeship services; nearly 8,000 SMEs obtained about loans of 60 billion yuan by pledging their IPs as collaterals; 53,000 companies passed the enterprise IP management standards certification, most of which were SMEs and 5,729 national IP template enterprises were cultivated, 76% of which were SMEs. At the end of 2020, the research and development intensity, the average number of valid invention patents and IP pledge financing of SMEs from template enterprises were respectively 4.8%, 29.4 and 1.08, much higher than the national average numbers, namely 2.2%, 2.9 and 0.01.

Moreover, enterprises' vitality was motivated through IP services. First, SMEs were encouraged to implement the enterprise IP management standards and their relevant abilities were strengthened. As of the end of 2020, the number of companies passed the enterprise IP management standards certification reached 53,000, most of which were SMEs. Second, IP trusteeship service system centering on SMEs was established. The pilot work was carried out at 35 parks with SMEs assembling in 20 pilot cities and areas. In 2020, IP trusteeship services were provided to more than 20,000 SMEs, and the activity to support the development of enterprises through IP service was carried out nationwide. Over 7,000 times of abundant and various events were held, benefiting more than 50,000 companies, with SMEs taking up a majority. Third, 5,729 national IP template enterprises were cultivated, 4,354 of which were SMEs, accounting for 76%.

[https://english.cnipa.gov.cn/art/2021/3/31/art\\_2509\\_158131.html](https://english.cnipa.gov.cn/art/2021/3/31/art_2509_158131.html)

## SUPPLEMENTARY ISSUE

### **Judges Urge Trademark Applicants to Be More Honest**

Individuals and enterprises should be more honest when applying to register trademarks since many applicants have lost lawsuits due to deception in recent years, Beijing judges said.

"The trademarks we found were incompatible with the applicants' actual products or services, meaning they might easily mislead or even defraud consumers, so we didn't support them in handling relevant cases," Zhang Jian, a judge at the Beijing Intellectual Property Court, said on Wednesday.

For example, an investment consulting company sued the China National Intellectual Property Administration because its application for a trademark named Li'an Fund was rejected by the government department, according to Zhang.

But the court ruled in favor of the administration "because the company had no qualification in the fund business," he said, adding that consumers would misunderstand the enterprise's service if the trademark was registered.

In another case, a Shenzhen-based technology company came to the court after it failed in its effort to register a trademark called Quan Tian Ran for its products of shampoos, hair dyes and cosmetics at the administration.

The court did not side with the company, "as quan tian ran in Chinese means 'all ingredients are natural', which isn't suitable to be used in products like shampoos," said Luo Mingxin, another judge at the court. "Consumers might be easily misled to believe that the goods contain no chemicals when seeing such a trademark."

Additionally, some applications for trademarks that included the name of a place or country were also identified as "deceptive" because those applicants were not from those areas, he said.

For instance, a company from Jilin province initiated a lawsuit against the administration after the authority disagreed with its application of a trademark called Yue Gang Ao for its wine products, he said.

"Yue gang ao in Chinese means Guangdong, Hong Kong and Macao," Luo said. "If the Jilin company used such a trademark, consumers might be confused with the wine's producing area, so we overruled its application."

Since the IP court was open in 2014, trademark administrative cases have accounted for more than half of all IP-related disputes, many of which have been initiated by companies after their applications were rejected by the administration, said Song Yushui, vice-president of the court. She added that the court supported the administration in about 81 percent of such lawsuits.

"That means the administrative and judicial authorities have the same understanding on what should be identified as deceptive trademarks in most cases," she said.

She suggested individuals and enterprises be honest and prudent when applying to register trademarks, preventing fake or exaggerated designs or descriptions of their products or services to protect consumers' right to know what the goods or services are.

She said the honesty of market entities will also contribute to creating an orderly business environment and maintaining high-quality development.

<http://english.ipraction.gov.cn/article/ns/202104/340215.html>

### **Alibaba Fined 18.2 Billion Yuan for Monopoly**

In December 2020, the State Administration for Market Regulation filed an investigation against Alibaba Group Holding Co., Ltd. (hereinafter referred to as Alibaba Group) for abusing its dominant market position in the online retail platform service market in China in accordance with the Anti-Monopoly Law.

According to the investigation, Alibaba Group has a dominant position in the online retail platform service market in China. Since 2015, Alibaba Group, the dominant market position, abuse within the platform on merchants "alternative" request, ban merchants set up shop in other competitive platform or platform to participate in promotional activities, and with the help of the rules of market forces, platform and data, algorithms and other technical means, take a variety of rewards and punishments measures to guarantee execution "alternative" requirement, Maintain and enhance their own market power and gain unfair competitive advantages.

The investigation shows that Alibaba Group's implementation of the "one or the other" behavior excludes and limits the competition in the service market of online retail platforms in China, impedes the free circulation of goods, services and resources, affects the innovative development of platform economy, infringes the legitimate rights and interests of merchants on the platform, and damages the interests of consumers. Paragraph 1 (4) of Article 17 of the Anti-Monopoly Law

prohibits the abuse of dominant market position by "limiting the counterparty to trade with the counterparty without justifying reasons".

In accordance with the provisions of Article 47 and Article 49 of the Anti-Monopoly Law, and taking into account the nature, extent and duration of Alibaba Group's illegal acts, the State Administration for Market Regulation made an administrative punishment decision on April 10, 2021, ordering Alibaba Group to cease its illegal acts. It also imposed a fine of 4 percent of its 2019 sales in China of 455.712 billion yuan, totaling 18.228 billion yuan. At the same time, in accordance with the principle of combining punishment with education in the Administrative Punishment Law, it issued the Administrative Guidance to Alibaba Group, requiring it to make comprehensive rectification in strictly implementing the main responsibility of enterprises on the platform, strengthening internal control and compliance management, maintaining fair competition, and protecting the legitimate rights and interests of merchants and consumers on the platform. In addition, it has submitted self-inspection compliance reports to the State Administration of Market Supervision for three consecutive years.

<http://english.ipraction.gov.cn/article/ns/202104/341254.html>

### **New Capsicum Varieties Infringement Case Opens for Hearing**

The plaintiff, in this case, Syngenta Seeds (Beijing) Co., Ltd. (Syngenta for short), owns the right to a new variety of pepper named "Marceau".

In 2017, the plaintiff Syngenta discovered in the market that the defendant Beijing Boshou Seed Co., Ltd. (abbreviated as Boshou) was selling the sweet pepper product "Shenghong" (referred to as the infringing variety involved). After that, Syngenta purchased from the defendant Shouguang Ludingshuo Agricultural Technology Co., Ltd. (referred to as Ludingshuo) the seedlings of the infringing varieties produced by the Boshou Company through notarization, and also obtained the infringement from the Boshou Company. The seeds, seedlings and "Marceau" seeds and seedlings of the seeds mentioned above and seedlings were tested for DNA (SSR molecular marker detection).

In September 2017, Syngenta sued Boshou and Ludingshuo to the Beijing Intellectual Property Court and held that the infringing variety involved in the case was the same as the "Marceau" that Syngenta enjoyed the right to new plant varieties. The company's production and sales activities with Ludingshuo Company constituted an infringement of its new plant variety rights, and

requested the court to order the two defendants to stop the infringement according to law, and jointly compensate for economic losses and the costs of investigating and stopping the infringement, totaling RMB 3 million.

The defendant, Boshou, believed that it also owned an authorized sweet pepper variety named "PP1201" (the name was once used as "Shenghong"), and the variety rights were acquired on April 23, 2018.

The infringing variety involved is the protected "PP1201" variety, which did not infringe on Syngenta's new plant variety rights.

The court organized DNA identification on the involved infringing varieties, "Marceau" and "PP1201", to ascertain the facts. The results showed that the number of different sites in the pairwise comparison of the three varieties was 0, similar to the variety. In July 2020, the plaintiff applied for withdrawal on the grounds of needing to organize evidence again.

On August 18, 2020, the plaintiff filed a lawsuit again and believed that the DNA identification results of the court's preliminary organization could not rule out the infringement of the rights of the new plant varieties by the actions of the two defendants, and applied for the court to organize a DUS identification to further ascertain the facts.

In this case, based on DNA testing, DUS testing should be used to further find out whether the three species involved are identical. Even if the DUS test shows that the three varieties are identical, it cannot deny the legal facts of Boshou's selection of varieties, and Boshou has not promoted and sold "PP1201" on a large scale, and has no intention to infringe on the variety rights involved, which does not constitute infringement. Lvdingshuo's planting and selling of the defendant's demonstration varieties did not constitute infringement.

Defendant Lvdingshuo Company: The defendant Lvdingshuo Company submitted a written statement expressing its waiver of participating in the court hearing on the same day and recognized the defense opinions of Boshou Company.

The case has not been pronounced in court and is being further tried.

<http://english.ipraction.gov.cn/article/tc/202104/340963.html>