Table of Contents

Chinese Courts Strengthen IP Rights Protection for Seed Industry

Chinese courts are continuously strengthening the protection of intellectual property rights related to the seed industry, aiming to promote innovation and high-quality development in this field with high-level judicial efforts.

The Supreme People's Court (SPC), China's top court, disclosed 15 concluded IP cases involving seeds on Thursday, which demonstrates the country's determination to ensure seed security through judicial means and resolve relevant disputes through multiple channels.

The disclosed cases not only cover major agricultural crops such as rice, wheat, corn and soybeans but also involve fruit and flower varieties such as apples, pineapples, roses and chrysanthemums.

In one case that was disclosed, four people were given prison terms and fines by a court in Anhui province for infringing on the trade secrets of a rice variety. The ruling has shown the severe punishment of seed-related crimes, according to the top court.

By leveraging the deterrent of criminal punishment, the ruling has also helped strengthen the protection of breeding innovation, purify the seed industry and create a favorable environment for enterprises in the field, the top court said. It also called for courts nationwide to further protect IP rights related to seeds, and strive to provide higher-quality and more efficient judicial services for innovative development of the industry.

http://chinaipr.mofcom.gov.cn/article/centralgovernment/202503/1991029.html

Shen Changyu Meets with Director General of Danish Patent and Trademark Office and Ambassador of Denmark to China

Shen Changyu, Commissioner of the China National Intellectual Property Administration (CNIPA), met in Beijing with Sune Stampe Sørensen, Director General of the Danish Patent and Trademark Office, and Michael Starbæk Christensen, the Ambassador of the Kingdom of Denmark to China recently. The two sides engaged in in-depth discussions on the latest progress in IP work in both countries and the implementation of the Memorandum of Understanding (MoU) on IP cooperation between the two offices.

Shen noted that this year marks the 75th anniversary of the establishment of diplomatic relations between China and Denmark. Under the joint leadership of the two heads of state, China-Denmark cooperation in various fields has achieved fruitful results. In recent years, CNIPA has maintained close exchanges with the Danish Patent and Trademark Office and the Danish Embassy in China, and the cooperation between the two sides has been continuously deepening. Looking forward, Shen expressed hope that both sides would continue to promote more practical cooperation projects to better serve the technological innovation and economic development of both countries.

Sørensen highlighted that the two offices have established a strong partnership for many years, strongly supporting the development of IP systems in both countries. He expressed hope that both sides would continue to deepen exchanges and cooperation and achieve mutual benefits, providing more quality and convenient services for both innovators.

Christensen emphasized that the friendship between Denmark and China has a long history, and IP plays an important role in promoting the development of bilateral relations and economic and trade exchanges. He hoped that the IP management departments of both countries would maintain close communication to deepen bilateral relations.

https://english.cnipa.gov.cn/art/2025/4/8/art_1340_198657.html

Shen Changyu Holds Bilateral Talks with WIPO DG Daren Tang

On March 26, Shen Changyu, Commissioner of the CNIPA, held a bilateral meeting with Daren Tang, Director General of the World Intellectual Property Organization (WIPO).

Shen emphasized that, in accordance with the spirit of the congratulatory letters sent by President Xi Jinping to the commemorative event marking China-WIPO 50th anniversary of cooperation and to the 2024 International Association for the Protection of Intellectual Property (AIPPI) World Congress, China has actively participated in the formulation of international intellectual property rules under the WIPO framework. Together with other parties, China has contributed to the successful conclusion of the WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge and the Riyadh Design Law Treaty. Additionally, China co-hosted the Third Belt and Road High-Level Conference on Intellectual Property and the Celebration of the Thirtieth Anniversary of China's accession to the Patent Cooperation Treaty (PCT). These events have yielded significant results. China has placed great importance on its cooperation with WIPO and will continue to constructively engage in global intellectual property governance under the WIPO framework, working together to promote the development of the global intellectual property ecosystem.

Tang commended China's achievements in the field of intellectual property. He noted that in recent years, China has been exploring innovations in intellectual property, and optimizing its intellectual property ecosystem. This move has not only supported its domestic innovation but also set a global benchmark for intellectual property development. WIPO is willing to deepen more fruitful cooperation with China in leveraging IP tools to promote development, improving WIPO's global intellectual property service system and other areas.

The two sides also held in-depth discussions on topics such as the application of artificial intelligence in intellectual property, the formulation of international intellectual property rules for new fields and new businesses, with a series of consensus reached.

CNIPA Deputy Commissioner Lu Pengqi and WIPO Deputy Director General Wang Binying also attended the meeting.

http://chinaipr.mofcom.gov.cn/article/centralgovernment/202503/1990827.html

CNIPA and HIPO Launch Focal Point Mechanism Pilot Project

In order to better serve the economic and trade exchanges between Hungary and China and to assist enterprises from both countries in addressing intellectual property-related issues and concerns in the other country, the CNIPA and the Hungarian Intellectual Property Office (HIPO) have, after consultations, decided to jointly launch the HIPO-CNIPA Focal Point Mechanism pilot project.

Both HIPO and CNIPA will designate one or two officers each as intellectual property focal points to provide consulting services on intellectual property issues related to Hungarian enterprises operating in China and Chinese enterprises operating in Hungary, and to support these enterprises in obtaining effective intellectual property protection.

During the project period, Chinese enterprises with relevant inquiries may contact the CNIPA intellectual property liaison officer through the following details:

Liaison Officers: Mr. Zhao Qing

Email: ip_support@cnipa.gov.cn

Hungarian enterprises with relevant inquiries may contact the HIPO intellectual property liaison officer through the following details:

Liaison Officer: Ms. Zsuzsanna Várfalviné Tari

Email: zsuzsanna.tari@hipo.gov.hu

The HIPO-CNIPA Focal Point Mechanism pilot project will run for one year, from April 1, 2025 to March 31, 2026.

https://english.cnipa.gov.cn/art/2025/4/8/art_1340_198658.html

China Strengthens IP Protection to Drive Innovation and Development

China's judicial protection of intellectual property rights has been further strengthened, contributing to serving its innovation-driven development and promoting new quality productive forces, according to annual work reports.

The reports of the SPC and the Supreme People's Procuratorate (SPP) were submitted to the ongoing third session of the 14th National People's Congress, the country's top legislature, for review on Saturday.

Last year, 21,000 individuals were prosecuted for infringing upon trademarks, patents, copyrights and business secrets, the SPP showed in its report, adding that the legal effort to advance the development of emerging sectors such as artificial intelligence and biomedicine was increased.

Chinese prosecutors also played their role in public-interest litigation, handling 4,219 IP-related cases, in a move to encourage technological innovators and serve high-level technological self-reliance, the report said.

In 2024, Chinese courts resolved 494,000 IP-related cases, an increase of 0.9 percent compared to the previous year, the SPC said in the report.

Judges across the country focused more on protecting IP rights in the fields of information technology, high-end equipment, biomedicine and new materials, the report noted.

Since the establishment of the Intellectual Property Court of the SPC in 2019, nearly 20,000 technological IP rights appeal cases have been concluded, with disputes in strategic emerging industries increasing annually. In 2024, such disputes reached 1,233, accounting for 32.3 percent of total cases, according to the report.

In addition, it added that Chinese courts imposed penalties on those using AI to infringe upon others' legitimate rights, in an effort to ensure the orderly development of the industry.

http://chinaipr.mofcom.gov.cn/article/centralgovernment/202503/1990827.html

China Enhances Judicial Protection of IPRs to Support Key Technologies, Industries: Reports

BEIJING, March 8 (Xinhua) -- China enhanced judicial protection of intellectual property rights (IPRs) to support the country's key technologies and industries last year, work reports of the SPC and the SPP showed Saturday.

According to the SPC work report submitted to the ongoing national legislative session for deliberation, China stepped up IPR protection in fields such as next-generation information technology, high-end manufacturing, biomedicine and new materials in 2024.

In the past year, the SPC effectively handled IPR disputes related to artificial intelligence (AI), supporting the lawful application of AI and penalizing infringement behaviors using the technology.

Chinese courts at all levels concluded 494,000 cases related to IPRs in 2024, up 0.9 percent year on year, according to the SPC report.

The SPP also highlighted efforts to enhance IPR protection to promote the growth of emerging industries, including AI and biomedicine, according to its work report.

The report said 21,000 individuals were prosecuted last year for crimes involving infringements of trademark rights, patent rights, copyright and business secrets, among others. The SPP handled 4,219 IPR cases involving civil, administrative and public interest litigation last year.

http://chinaipr.mofcom.gov.cn/article/centralgovernment/202503/1990829.html

New IP Rules Set to Advance Opening-up

China's continuous efforts in handling foreign-related intellectual property disputes will serve as a robust backbone for domestic enterprises going global and constitute an important guarantee to advance the country's high-level opening-up, experts said.

They made the remarks after the State Council, China's Cabinet, on Wednesday unveiled an 18-article regulation on resolving IP disputes related to foreign matters. The regulation will take effect on May 1.

"This is China's first administrative document that systematically standardizes the handling of foreign-related IP disputes, which is of great guiding significance," said Liu Bin, an IP lawyer at Beijing Zhong Wen Law Firm.

He praised the regulation for strengthening overseas IP information inquiry and warning services, and said that disputes should be resolved through various channels such as mediation and arbitration.

Liu also welcomed the provisions that encourage law firms to improve the efficiency of IP services and support the establishment of overseas IP dispute funds by domestic enterprises, adding that "these measures will help our innovators reduce the cost of cross-border IP rights protection".

Wang Zhenkun, a partner of Shanghai YaoWang Law Offices, said the new regulation "will accelerate the layout of Chinese IP legal service institutions around the world, thereby helping domestic enterprises connect with international rules more effectively and enhancing China's say in global IP governance".

He noted that the regulation will also be conducive to safeguarding national security and development interests, because it states that if foreign countries use IP disputes as a pretext to constrain or suppress China, or

impose discriminatory and restrictive measures on Chinese citizens or organizations, central government departments can take countermeasures.

"Foreign-related IP services are one of the core businesses of our law firm," Wang said. "We not only have a deep understanding of the technical background and commercial demands of domestic enterprises, but can also draw on the resources of overseas cooperation platforms to avoid strategic mistakes caused by cultural or judicial differences."

"We have helped Chinese technology and manufacturing enterprises collect evidence in patent and trademark disputes in Europe, providing them with litigation strategies," he said.

"We have also cooperated with our overseas partners to keep track of local IP laws in real time, in order to proactively adjust IP application plans and reduce potential dispute risks for domestic companies expanding abroad," he added.

The law firm at which Liu is an IP lawyer has also established long-term and stable cooperation with foreign legal service institutions in various countries and regions, such as Germany, France and Switzerland.

"We formulate compliance plans for domestic enterprises in fields such as technology exports and cross-border data transfer, with legal services provided. In this way, they can avoid infringing on the IP rights of foreign entities and reduce the losses they may suffer from overseas IP disputes," Liu said.

Both Liu and Wang suggested that China should step up work on IP talent education, and pledged to work with the authorities in providing legal training for and introducing IP laws to enterprises going global by sharing experiences and practices through case studies.

http://chinaipr.mofcom.gov.cn/article/centralgovernment/202503/1991027.html

China Reaches Target of High-value Invention Patents ahead of Schedule

The number of high-value invention patents per 10,000 people in China has reached 14 by the end of last year, achieving the expected target of the national 14th Five-Year Plan (2021-25) ahead of schedule, the country's top intellectual property regulator said.

Data released by the CNIPA on Friday also showed that the number of valid invention patents in strategic emerging industries has exceeded 1.34 million as of December 2024, a year-on-year increase of 15.7 percent.

Additionally, among the new patent applications by universities and research institutions, the proportion of invention patents has risen to 70.4 percent, according to the data.

Wang Peizhang, an official from the administration, said that these figures have demonstrated the quality of patents across the country has been further improved, adding that many patents have been transformed into actual benefits to better serve high-quality economic development.

While strengthening efforts to utilize IP rights, IP regulators nationwide has also given strong protection to original innovation of private enterprises, providing them with quick channels and comprehensive services to safeguard their rights and interests, said Guo Wen, another official from the administration.

"For example, an IP protection center in Hangzhou, Zhejiang province, has set up a timely response mechanism and proactively offers services to local start-up private companies, supporting them in areas such as trademark early warning and patent analysis," she added.

Meanwhile, the country has also promoted the innovation of private enterprises by enhancing the handling of disputes related to patent infringement and helping resolve their problems in more diverse way, she noted.

Last year, IP regulators dealt with 72,000 such disputes, of which more than 51 percent involved private enterprises, the data said, adding that IP mediation organizations also tackled nearly 140,000 cases in 2024, serving 157,000 private companies.

Guo said that the administration has endeavored to providing guidance for private enterprises going global in handling IP disputes overseas, aiming to help them alleviate risks in this IP field.

http://chinaipr.mofcom.gov.cn/article/centralgovernment/202503/1991025.html

China Strengthens IP Protection Framework

To promote the high-quality development of the private sector, China will continue its strong intellectual property protection of private enterprises at home and abroad, the country's top IP regulator said.

"We've enhanced the protection and incentives for the original innovation of private companies, providing them with quick channels and comprehensive services in safeguarding their IP rights and interests," Guo Wen, an official from the National Intellectual Property Administration, told a news conference on Friday.

She cited an IP center in Hangzhou, Zhejiang province, as an example, explaining that it has established a timely response mechanism to support local private startups with services such as patent analysis and trademark early warning, thereby advancing their innovation and development.

Meanwhile, the administration has also focused more on patent infringements in the private sector and explored different ways to address relevant problems, she added.

Last year, IP regulators nationwide handled 72,000 patent infringement disputes, of which more than 51 percent involved private enterprises, according to data released by the administration.

Mediation organizations also helped tackle nearly 140,000 IP-related cases in 2024, serving 157,000 private companies, the data said.

Additionally, the administration has established 71 guidance centers and four IP industrial institutes across the country to optimize services and provide aid for private entities going global in the prevention of IP risks and handling IP disputes overseas, Guo added.

The data show that these centers and institutes served various enterprises 886 times last year, helping them recover economic losses of 14.15 billion yuan ($1.95 billion).

Guo also called for implementing a regulation on resolving IP disputes related to foreign matters, which was issued by the State Council, China's Cabinet, last week and will come into force on May 1.

She noted that the administration will work with other authorities to provide better IP services and stronger support for private and other entities to go global.

Wang Peizhang, another official from the administration, said that the quality of patents in China has also been further improved, with many patents transformed into actual benefits to serve high-quality economic growth.

He revealed that the number of high-value invention patents per 10,000 in the country reached 14 by the end of last year, achieving the expected target of the national 14th Five-Year Plan (2021-25) ahead of schedule.

The number of valid invention patents in strategic emerging industries exceeded 1.34 million as of December 2024, a year-on-year increase of 15.7 percent, according to the data.

Among the new patent applications by universities and research institutions, the proportion of invention patents rose to 70.4 percent last year, the data show.

http://chinaipr.mofcom.gov.cn/article/centralgovernment/202503/1991024.html

Intellectual Property Parallel Session of 2025 Zhongguancun Forum Annual Conference Held

On March 27, the Global Forum on Intellectual Property Protection and Innovation of the Zhongguancun Forum Annual Conference was held in Beijing. The forum was themed "Reform and Innovation: Intellectual Property Empowering New Quality Productive Forces." Shen Changyu, Commissioner of the CNIPA, Daren Tang, Director General of the WIPO, and Sun Shuo, Vice Mayor of Beijing, attended the forum and delivered speeches.

Shen noted that President Xi Jinping has profoundly pointed out that new quality productive forces are an advanced form of productive forces with innovation playing the leading role. There is a close interactive relationship between intellectual property (IP) and new quality productive forces. In recent years, CNIPA has fully leveraged the role of the IP system in stimulating innovation, promoting openness, and serving the building of a high-standard market system. A series of policies and initiatives have been introduced to strengthen IP protection and utilization, and improve the IP system and mechanism, thereby empowering the development of new quality productive forces. Shen expressed hope that this forum would further build consensus and promote IP to better empower new quality productive forces and benefit the people of all countries.

Tang highlighted that WIPO has identified deep science and digital technology as the two major engines driving innovation. Digital technology, as the core driving force of global innovation, has accounted for one-third of global patent applications. Also, digital communication has become the leading field in published PCT applications. China's digital economy has exceeded 50 trillion yuan, contributing more than 40% to GDP. The rapid development of Artificial Intelligence (AI) also brings challenges to IP. WIPO is addressing these challenges by deepening global dialogues, improving copyright management technologies, and establishing an AI policy toolkit. WIPO hopes to promote more IP cooperation in Beijing and Zhongguancun, helping advance the development of IP system.

Sun noted that in recent years, Beijing has been deeply implementing the important instructions of General Secretary Xi Jinping on IP work, continuously deepening reforms in the field of IP, actively promoting the construction of an IP protection pilot area, conducting comprehensive pilot programs for IP finance ecosystems, strengthening the rule of IP legal protection, ensuring equal protection for IP of both Chinese and foreign enterprises, and actively creating a world-class business environment that is market-oriented, law-based, convenient, and internationalized. In the future, Beijing will continue to promote the construction of a template city under the IP Powerhouse Country Project, relying on innovation hubs such as Zhongguancun to build a high-quality innovation ecosystem, strengthen IP protection and utilization, and empower the development of new quality productive forces.

During the forum's keynote speeches, Chinese and international guests engaged in in-depth discussions on topics such as deepening IP reform, IP to empower the development of new quality productive forces and IP protection and innovation in emerging fields.

Attendees of the forum included Sune Stampe Sørensen, Director General of the Danish Patent and Trademark Office, Wang Binying, Deputy Director General of WIPO, Jiang Peixue, Vice President of Tsinghua University and an academician of the Chinese Academy of Sciences.

https://english.cnipa.gov.cn/art/2025/4/14/art_1340_198764.html

SUPPLEMENTARY ISSUE

Determination of Combined Teaching of Prior Design Features

If combining prior design features to form a patented design requires significant modification and adjustment – such as cohesion, response, transition, and coordination - to achieve a harmoniously unified appearance and functionality, the combination process may generally be deemed as beyond the knowledge level and cognitive ability of general consumers and it is difficult for them to think of combining such design features. By this time, it may be determined that the prior design does not teach this combination.

Natural Person X owns the design patent "Telescopic Height Gauge" (hereinafter referred to as the Patent). On June 8, 2021, Company A filed an invalidation request against the Patent. CNIPA issued an invalidation decision on December 29, 2021, concluding that the prior designs did not have evidently combined teachings and therefore maintained the Patent's validity. Company A disagreed and filed a lawsuit, requesting the court to revoke the contested decision and to order CNIPA to make a new decision.

The first-instance court rendered an administrative judgment to revoke the contested invalidation decision made by CNIPA and to order CNIPA to issue a new decision. Both CNIPA and X appealed this judgment. On September 18, 2023, the SPC issued a final administrative judgment: revoking the first-instance judgment and dismissing Company A's claims.

The court's effective judgment held that, before comparing the combination of prior design features with the patented design, it must first be determined whether there is a "combined teaching" - that is, whether general consumers can easily think of combining the prior design features. Since the designs protected under China's Patent Law are new designs that possess aesthetic and are suitable for industrial application, that is, they are industrial product designs rather than pure artistic designs and representing the application of aesthetic principles to product appearance. Therefore, the designs must be based on and embodied in specific products. Although when comparing a combination of prior design features with a patented design, the assessment focuses solely on the product's visual appearance after combination, excluding non-design factors such as functionality, the prerequisite of the assessment is that the combined design features must be integrated into a product with harmonized appearance and functions. Otherwise, the combined design would become a mere artistic design detached from any practical product. If significant modification and adjustment such as cohesion, response, transition, and coordination are required to make the combined product a harmonious and unified whole, it may generally be deemed that the combination process is beyond the knowledge level and cognitive ability of general consumers, and it is difficult for general consumers to think of combining such design features. Where the party concerned does not provide evidence proving that the prior designs disclose such combination method, the people's court shall determine that the prior designs do not teach the combination.

In this case, Company A proposed two approaches of evidence combination. First, in the combination of Evidence 1 and Evidence 2, the hook is removed from the top of Evidence 1, which leaves no corresponding design for connecting Evidence 2's pivot axis and folding ruler, necessitating a redesigned connecting component. Additionally, Evidence 1 lacks the necessary space to accommodate the original folding ruler's rotation around the axis, requiring further modifications. These design alterations do not belong to "minor variations." Second, in the combination of Evidence 3 and Evidence 4, a segment of a folding ruler is added onto Evidence 3, which is a complete telescopic ruler without additional structural features. As Company A did not

substantiate with evidence demonstrating the prior existence of the combination in prior designs, it cannot be concluded that an ordinary consumer would think of such a combination approach easily. In conclusion, the combination of Evidence 3 and Evidence 4 still demands significant design adjustments and modifications.

(2022) Zui Gao Fa Zhi Xing Zhong No. 821

Determination on Whether Claims Involving Custom Product Models Have a Clear Protection Scope

The SPC concluded an appeal against an administrative dispute over the invalidation of an invention patent. The court clarified that, for claims containing custom product models, if the description neither discloses the product's source nor its structure, composition, performance, or manufacturing method—making the referenced material indeterminable—and those skilled in the art cannot reasonably determine its meaning after reading the claims, description, and drawings, it shall be determined that the protection scope of the claims is unclear, and the patentee shall bear the corresponding adverse consequences.

Xi'an A Company filed an invalidation request with the CNIPA against an invention patent owned by Shenyang B Company, titled "A Method for Manufacturing Resin-Based Composite Aircraft Part Stretch-Forming Molds" (hereinafter referred to as "the Patent"). The primary grounds were that Claims 1-2 of the Patent were unclear and lacked inventiveness. The CNIPA's decision, which was later contested, held that Claim 1 specified the operational source materials for two steps as "SAM910" and "SAM900" resin materials, which were commercially available products of Shenyang B Company, and thus the protection scope of Claim 1 was clear. Dissatisfied, Xi'an A Company filed a lawsuit.

The first-instance court held that: "SAM" is a terpolymer of styrene (S), acrylonitrile (AN), and maleic anhydride (MA), and "SAM910" and "SAM900" are product grades. Grades of Resin products are publicly known, and each corresponds to a specific product model. In addition, Xi'an A Company acknowledged that "SAM910 resin material" and "SAM900 resin material" were publically sold by Shenyang B Company. Hence, in the absence of contrary evidence, the contested decision's determination that SAM910 and SAM900 were clearly identified as resin materials based on the evidence in this case should be upheld. The court thus dismissed Xi'an A Company's claims. Xi'an A Company was dissatisfied, and appealed the first-instance judgment.

The SPC, in the second instance, held that the "the claims must be clear" refers to the protection scope of the claims should be clear to those skilled in the art. In this case, "SAM910" and "SAM900" resin materials in the Patent's claims were custom product models defined by Shenyang B Company, not generic terms with established meanings in the field. The Patent's description neither disclosed the source of SAM910 and SAM900 resin materials nor their structures, compositions, performances, or manufacturing methods, making the referenced materials indeterminable. Under these circumstances, those skilled in the art could not reasonably determine the meaning of SAM910 and SAM900 after reading the claims, description, and drawings, which meant that the protection scope of the Patent was unclear. Although the patentee, Shenyang B Company, submitted evidence during the second instance to show it had sold SAM900 resin material to Xi'an A Company, the description of the Patent did not disclose whether the resin materials of custom models SAM910 and SAM900 defined by the patentee were commercially available products. Furthermore, whether the invalidation requester had previously purchased these custom-model products does not affect the general understanding of

those skilled in the art and is irrelevant to the determination of whether the patent claims are sufficiently clear.

The second-instance judgment in this case holds certain reference value for promoting higher-quality patent drafting and ensuring fair and reasonable protection of inventions in accordance with the law.

(2023) Zui Gao Fa Zhi Xing Zhong No. 269

Determination of "Prior Legitimate Rights" as Prescribed in Paragraph 3 of Article 23 of the Patent Law

In a case of administrative dispute over the design patent grant and confirmation, the rights or interests which have been obtained before the application date of the patent and are still legally existing when the request for patent invalidation is filed shall constitute the "prior legitimate rights" as specified in paragraph 3 of Article 23 of the Patent Law.

Natural Person X is the patentee of a design patent titled "Beer Can" (hereinafter referred to as "the present patent"), with an application date of May 28, 2018, and a grant announcement date of December 18, 2018. The design prominently features the text "V8" on the can body. Company A is the owner of the registered trademark "V8," which was filed on December 30, 2016, preliminarily approved on July 27, 2018, and officially registered on October 28, 2018. Company A filed a request with the CNIPA to declare the present patent invalid, arguing that it did not comply with Paragraph 3 of Article 23 of the Patent Law. On November 3, 2020, the CNIPA issued a decision on the invalidation request, maintaining the validity of the present patent. Dissatisfied with this decision, Company A filed a lawsuit with the court.

The first-instance court ruled that given Company A only acquired the exclusive right to the registered trademark "V8" from its registration date, which is later than the filing date of the present patent, the trademark did not constitute a registered trademark right obtained prior to the present patent's application date, nor did it constitute a prior right conflicting with the present patent. Accordingly, the court issued an administrative judgment dismissing Company A's claims. Dissatisfied, Company A appealed the judgment. On September 22, 2023, the SPC delivered its final judgment: 1) to overturn the first-instance court's administrative judgment; 2) to revoke the CNIPA's aforementioned decision on the invalidation request; and 3) to order the CNIPA to re-examine Company A's invalidation request regarding the present design patent in question.

The court's effective judgment held that the legislative intent of Paragraph 3 of Article 23 of the Patent Law, which states that "any design for which patent may be granted must not conflict with the legitimate right obtained before the date of filing by any other person," is to prevent the implementation of the design patent from conflicting with the prior legitimate rights of others. Any situation where the implementation of the design patent may infringe upon the prior rights of others falls within the regulatory scope of this provision. Hence, when resolving administrative disputes regarding the grant and confirmation of design patents, the term "legitimate rights" in Article 23(3) of the Patent Law should not be narrowly interpreted. Generally, any legally acquired rights or interests existing before the patent application date and valid at the time of requesting patent invalidation should be considered. Trademark rights represent one of the prior legitimate rights referred to in Article 23 of the Patent Law. Trademarks include registered trademarks and unregistered trademarks. Trademark owners legally enjoy exclusive rights to their registered trademarks and also retain legitimate rights and interests in unregistered marks that have formed

a corresponding relationship with the trademark owner through use and have been effectively distinguishing the source of goods or services.

In this case, Company A's claimed prior rights included the prior use of the "V8" mark. Dali B Company, Company A's predecessor, had used and promoted the marks "大理啤酒 V8" (English translation: Dali Beer V8) and "大理 V8 "(English translation: Dali V8) on beer products for 12 years before the application date of the present patent, and obtained relatively high fame and recognition. Consumers strongly associated the said two marks with Dali B Company's "V8" beer, solidifying a specific link between the "V8" mark and Dali B Company. In addition, Natural Person X resided in the primary sales region of the aforementioned beer, and there's an objective possibility for potential imitation or replication of the previously filed trademark. Consequently, the court determined that the present patent can be deemed as not complying with the provisions of Article 23(3) of the Patent Law, leading to the reversal of the first-instance judgment and a directive to issue a new decision.

(2023) Zui Gao Fa Zhi Xing Zhong No. 42

The Principle of Good Faith Must Be Adhered to in Applying for Registration of Integrated Circuit Layout Designs

The SPC resolved an appeal case involving an administrative dispute over the revocation of an integrated circuit layout design. In the case, the Court clearly stated that intellectual property rights, as civil rights, must be acquired, exercised, and disposed of in accordance with the principle of good faith. If the owner of a layout design right seriously violates the principle of good faith in the application for registration, they shall bear the adverse consequences.

An invalidation petitioner requested the CNIPA to revoke the layout design right for Integrated Circuit Layout Design M (hereinafter referred to as "the present layout design") owned by Company A. The primary argument was that a reference Layout Design N was a conventional design completed before the date of completion of the present layout design and was identical to it. Therefore, the present layout design did not meet the requirements of Article 4 of the Regulations on Layout Designs and lacked originality. The CNIPA issued the contested decision, revoking the exclusive right to the present Layout Design. Dissatisfied, Company A filed a lawsuit with the first-instance court, requesting the revocation of the contested decision and an order for the CNIPA to reissue a decision.

The first-instance court found that: 1) The present layout design M had a date of application of October 23, 2009, a registered date of completion of January 22, 2009, and a date of first commercial use of May 3, 2009. 2) The reference Layout Design N, owned by Company B, had a date of application of February 2, 2010, a registered date of completion of August 6, 2008, and a date of first commercial use of January 5, 2009.

The first-instance court held that, to determine the originality of a layout design, the completion date of that layout design should be the reference point for assessment. Since a layout design is inevitably completed when it is commercially utilized or registered, when the exact date of completion cannot be determined, the date of first commercial use or the date of application may be presumed as the date of completion. In this case, although Layout Design N registered a date of completion and a date of first commercial use, these dates were self-reported by Company B without supporting evidence. Evidence submitted by Company A showed that Company B was established on November 20, 2009, which was after the date of first commercial use of January 5, 2009 reported in the registration application for Layout Design N. Company B also stated that it

had not conducted any development or preparation work for integrated circuit layout designs before its establishment. Therefore, the first-instance court found that the evidence was insufficient to prove the authenticity of the date of first commercial use reported in the registration application for Layout Design N. Since an earlier date of completion makes it easier to establish originality, and in the absence of evidence proving the actual date of completion or commercial use date of Layout Design N, only its date of application (February 2, 2010) could be presumed as its date of completion. The date of first commercial use of the present layout design M was May 3, 2009, and its date of application was October 22, 2009, both of which predated the date of application of the reference Layout Design N. There was no evidence proving that Layout Design N was publicly known before the date of application of the present layout design. Therefore, Layout Design N could not be considered a prior design against the present layout design. The contested decision, which evaluated the originality of the present layout design based on Layout Design N, lacked factual and legal basis. The first-instance court ruled in favor of Company A, revoking the contested decision and ordering the CNIPA to reissue a decision.

Dissatisfied with the first-instance judgment, both the CNIPA and the invalidation petitioner appealed to the SPC.

The SPC held in the second-instance judgment that: The date of completion and date of first commercial use reported in the layout design registration application have significant legal implications. However, these dates are self-reported by the applicant, and the CNIPA does not conduct substantive examination on them. This requires applicants to adhere to the principle of good faith, fulfill their obligation to report truthfully, and ensure the comprehensive, accurate, and truthful declaration of information to uphold the publicity and certainty of the layout design registration system. In this case, Company B and Company A were affiliated companies. Knowing that the subject matter of Layout Design N was identical to the previously registered Layout Design M, they successively applied for and obtained exclusive rights to both layout designs, with Company B acknowledging the facts and providing assistance in the process. This directly demonstrated that Company A and Company B colluded to abuse the integrated circuit layout design legal system through false declarations, fraudulently obtaining the exclusive rights to Layout Design N. At the same time, it also cast substantive doubt on the authenticity of the date of completion and date of first commercial use of Layout Design M.

As a civil right, the acquisition, exercise, and disposition of intellectual property must comply with the principle of good faith. The principle of good faith, as a fundamental principle of a rule-of-law society, should also apply to administrative legal relationships. In this case, Company A, the owner of the previously registered layout design, colluded with Company B to apply for and obtain registration of an identical layout design under Company B's name. This constituted a clear act of deception against the CNIPA and the public, evidently violating the principle of good faith and rendering the dates of completion and dates of first commercial use of both registered layout designs unreliable. In such circumstances, an adverse determination should be made against Company A, the right owner of the present layout design, meaning that the present layout design should not be protected, and Company A should bear the adverse consequences of the revocation of the exclusive rights to the layout design. In conclusion, the appeals of the CNIPA and the invalidation petitioner were well-founded and should be upheld. The SPC revoked the first-instance judgment and ruled against Company A's claims. Whether the exclusive rights to Layout Design N should also be revoked falls outside the scope of this case and may be addressed separately by the CNIPA in accordance with the law.

The second-instance judgment clarified that the acquisition, exercise, and disposition of intellectual property must comply with the principle of good faith. As a fundamental principle of a rule-of-law society, the principle of good faith should also apply to administrative legal

relationships. Intellectual property obtained through serious violations of the principle of good faith should not be protected. This case has a guiding significance for upholding the principle of good faith in the field of intellectual property.

(2022) Zui Gao Fa Zhi Xing Zhong No. 472

Determination of Whether the Design is Clearly Distinguishable

If a patented design is only a combination or replacement of design features of different parts of the same reference design of products of the same category by applying conventional design techniques such as centering and symmetry, the present patented design may be generally considered to be only slightly different from the reference design and have no unique visual effect.

Natural Person X is the patentee of a design patent for a "Screwdriver Storage Case" (hereinafter referred to as "the present patent"). Foshan A Factory filed an invalidation request with the CNIPA and submitted a Chinese design patent as Evidence 1, arguing that the present patent did not possess distinguishing features in view of the combination of Evidence 1 and other evidence.

After examination, the CNIPA found that the main differences between the present patent and Evidence 1 were: 1) The positions of the handle storage cavity were different. In the present patent, the handle storage cavity was located at the center of the rectangular case, while in Evidence 1, the cavity was located on the left side of the rectangular case. 2) The shapes and positions of the blade storage cavities were different. In the present patent, two blade storage cavities were symmetrically arranged on both sides of the handle storage cavity, each containing four sets of blade slot units evenly arranged from top to bottom, with each unit having three blade slots. In Evidence 1, one blade storage cavity was located on the right side of the rectangular case, adjacent to the handle storage cavity, and contained four sets of blade slot units evenly arranged from top to bottom, with each unit having six blade slots. The differences in the positions of the handle storage cavities, as well as the shapes and positions of the blade storage cavities, result in significant differences in the corresponding partition shapes and overall designs between the present patent and Evidence 1. These front designs are noticeable parts to general consumers, meaning that these differences had a notable impact on the overall visual effect. Therefore, the present patent and Evidence 1 were clearly distinguishable, and there was no evidence proving that these differences were conventional designs for such products. Additionally, the present patent also possessed distinguishing features in view of the combination of Evidence 1, Evidence 2 (or Evidence 3), and conventional designs, and in view of the combination of Evidence 4, Evidence 2 (or Evidence 3), and conventional designs. On November 3, 2020, the CNIPA issued a decision on invalidation, upholding the validity of the present patent. Dissatisfied, Foshan A Factory filed an appeal, seeking the revocation of the contested decision and an order for the CNIPA to reissue a decision.

Upon trial, the first-instance court held that the present patent possessed distinguishing features in view of the combination of Evidence 1 and conventional designs. On March 22, 2022, the court issued an administrative judgment dismissing the claims raised by Foshan A Factory. Foshan A Factory filed an appeal. On November 8, 2023, the SPC issued a final administrative judgment, revoking the administrative judgment of the first-instance court and the contested invalidation decision made by the CNIPA, and ordering the CNIPA to reissue a decision on the invalidation request filed by Foshan A Factory against the design patent.

The court's effective judgment held that the present patent possessed distinguishing features in view of the combination of Evidence 1 and conventional designs. The shape, size, and number of

the strip-shaped handle storage cavities and blade storage cavities are primarily determined by the shape, size, and number of the handles and blades they accommodated. The design of the handle and blade storage cavities cannot be separated from the shape, size, and number of the handles and blades. The grooves for accommodating handles and blades are fundamental design features of screwdriver storage cases. Where Evidence 1 has disclosed the design of grooves for accommodating handles and blades, general consumers, based on the overall design inspiration provided by Evidence 1, could easily apply conventional design techniques such as centering and symmetry to relocate the handle storage cavity to the center and arrange the blade storage cavities evenly from left to right or from top to bottom, symmetrically distributed on both sides of the blade storage cavities. Therefore, by applying conventional design techniques—such as combining or replacing different design features of the same type of product—to Evidence 1, a design substantially identical to the present patent could be obtained, exhibiting only subtle differences in overall visual effect and lacking a unique visual effect. Thus, the present patent did not possess distinguishing features in view of the combination of Evidence 1 and conventional designs.

(2022) Zui Gao Fa Zhi Xing Zhong No. 567