AFD China
INTELLECTUAL PROPERTY LAW OFFICE

Newsletter
May, 2025

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2025 High-level Forum on China's IP Protection Held in Beijing

On April 21, the 2025 High-level Forum on China's Intellectual Property (IP) Protection was held in Beijing. The forum was co-hosted by China Intellectual Property News (CIPN) and World Intellectual Property Organization (WIPO) Office in China. The theme of this year's forum was "Opportunities and Challenges: Intellectual Property Governance in the Context of Artificial Intelligence." Shen Changyu, Commissioner of the China National Intellectual Property Administration (CNIPA), Gong Ming, Deputy Prosecutor-General of the Supreme People's Procuratorate of China, Sun Shuo, Vice Mayor of the People's Government of Beijing Municipality and Kenichiro Natsume, Assistant Director General of WIPO attended the opening ceremony and delivered speeches. The ceremony was moderated by CNIPA Deputy Commissioner Hu Wenhui.

During the keynote speeches, speakers from universities and innovative enterprises shared their approaches and initiatives to promote the sound and coordinated development of IP and AI.

Since its inception in 2016, the High-level Forum has been successfully held eight times, receiving widespread attention and enthusiastic participation from all sectors of society. This year's forum featured three sub-forums, focusing on leveraging Geographical Indications to empower rural revitalization, empowering high-quality economic development through the Patent Reexamination and Invalidation System, and IP Protection & Innovation Ecosystem Construction in the AI era. Participants included representatives from national ministries and commissions, universities and research institutes, enterprises, and IP service agencies.

https://english.cnipa.gov.cn/art/2025/4/23/art_1340_199183.html

Flagship Event of National IP Publicity Week 2025 Held in Beijing

The Flagship Event of National Intellectual Property (IP) Publicity Week 2025, organized by the Organizing Committee of the 2025 National Intellectual Property Publicity Week, was held in Beijing on April 21. Shen Changyu, Commissioner of the CNIPA and head representative of the Organizing Committee's director unit, Hu Kaihong, a member of the Affairs Council of the Publicity Department of the CPC Central Committee and Vice minister of the Central Office of Cultural and Ethnical Progress, and Bai Qingyuan, Deputy Commissioner of the State Administration for Market Regulation attended the event and delivered speeches. Daren Tang, Director General of the WIPO, delivered a video speech. Attendees also included Tao Kaiyuan, Vice President of the Supreme People's Court of China; Gong Ming, Deputy Prosecutor-General of the Supreme People's Procuratorate; Yu Jianlong, Vice Chairman of the China Council for the Promotion of International Trade; Sun Shuo, Vice Mayor of the People's Government of Beijing

Municipality and Kenichiro Natsume, Assistant Director General of WIPO. CNIPA Deputy Commissioner Hu Wenhui presided over the event and introduced the key activities arranged by the Organization Committee's member units during the Publicity Week.

This year's National IP Publicity Week is scheduled from April 20 to 26, with the theme "Intellectual Property and Artificial Intelligence." This year's campaign aims to showcase how IP supports and promotes the development of the AI sector, while also highlighting how AI is driving the innovation of IP systems and improving governance effectiveness. It emphasizes the symbiotic evolution, mutual empowerment, and integrated development between AI and IP.

Typical cases of patent commercialization and utilization, as well as notable cases of Chinese invention patent cases in Belt and Road countries and regions were released during the event. Representatives from AI enterprises also read a joint statement for strengthened IP protection and utilization.

Throughout the Publicity Week, the Organization Committee's member units and local authorities across the country will conduct a variety of IP publicity and educational activities by diverse means, aiming to foster a IP culture of respect for knowledge, encouragement of innovation, integrity and lawfulness, and fair competition.

The event was also attended by Lu Pengqi and Zhang Zhicheng, members of CNIPA's Party Leadership Group, as well as principal officials from the Patent Office. Officials from the relevant departments from the Organization Committee's member units, CNIPA's relevant departments, representatives of innovative enterprises in the AI field, and IP service agencies also attended the event.

https://english.cnipa.gov.cn/art/2025/4/23/art_1340_199182.html

CNIPA Deputy Commissioner Meets with WIPO Assistant Director General Kenichiro Natsume in Beijing

Lu Pengqi, Deputy Commissioner of the CNIPA, met in Beijing recently with Mr. Kenichiro Natsume, Assistant Director General of WIPO, and his delegation.

Lu introduced the latest developments in China's intellectual property (IP) sector. He noted that in recent years, China has made steady progress in various aspects of IP work, continuously optimizing its IP service system and strengthening the dissemination and utilization of IP information. China has attached great importance to the innovation of emerging technologies, particularly artificial intelligence, and is willing to actively participate in exchanges and cooperation under the WIPO framework, contributing to the improvement of international rules on emerging technologies.

Natsume commended China's efforts in enhancing IP information infrastructure and improving service quality. He highlighted that China's advancement in using IP to foster innovations in AI technology plays a significant role in the development of the global innovation ecosystem. WIPO looks forward to further deepening its cooperation with China in the areas of IP services and emerging technologies to better serve innovation stakeholders worldwide.

Principal officials responsible for relevant CNIPA departments attended the meeting.

https://english.cnipa.gov.cn/art/2025/4/25/art_1340_199303.html

CNIPA, Intellectual Property Agency of the Republic of Azerbaijan Sign Memorandum of Understanding

On the morning of April 23, under the joint witness of President Xi Jinping and President of Azerbaijan Ilham Aliyev, the Memorandum of Understanding between the CNIPA and the Intellectual Property Agency of the Republic of Azerbaijan was signed at the Great Hall of the People in Beijing. CNIPA Commissioner Shen Changyu and Jeyhun Bayramov, the Foreign Minister of Azerbaijan, signed the memorandum on behalf of their respective authorities.

The two sides agreed to enhance communication and cooperation in the fields of patent, industrial design, trademark, and geographical indication, with the aim of promoting the technological, trade, and socio-economic development of both countries.

https://english.cnipa.gov.cn/art/2025/4/28/art_1340_199418.html

SUPPLEMENTARY ISSUE

Patent Law revolution: China's 40-year Journey from Adaptation to Advancement

The patent system, emphasizing exclusive private ownership and gains, was once viewed by some Chinese people 40 years ago as not aligning with the socialist values of common innovation for public benefits.

However, at the ongoing annual National Intellectual Property Publicity Week, a nationwide campaign where street banners, media platforms, and public advertisements all highlight IP-related achievements, the 40th anniversary of China's Patent Law was commemorated as a milestone in the history.

Much like an individual reaching 40 years old, the law of patent, the most important IP type, is seen as entering maturity through revisions over the past four decades. It has evolved from passively adapting to international rules to actively addressing domestic needs, providing strong legal support for the country's independent innovation.

Observers believe that in the strategic transformation of China's economy from being large to strong, particularly in developing new quality productive forces, the law of patent will play a more crucial role in promoting and safeguarding the progress.

ADAPTATION TO INTERNATIONAL RULES

The origins of China's Patent Law can be traced back to July 1978, the dawn of the reform and opening up. The central authority decided to establish a patent system. However, the term "patent" was unfamiliar to most Chinese people at the time.

A drafting team of legal, trade and technical experts studied patent systems from over 30 countries. After years of research and 25 drafts, China's first Patent Law was enacted in 1984.

At that time, since the system of planned economy had not fundamentally transformed, and people's understanding of IP rights was still limited, the drafting process even caused controversy, as some argued that a patent system might not align with the principles of socialism.

However, the doubts were quieted down by the long queue of applicants at the entrance of a national office of patents on April 1, 1985, the very first day the law came into effect. More than 3,400 applications were submitted on that day, setting a daily record in patent history.

The first two revisions in 1992 and 2000, including extensions to the patent term and scope, were aimed at "serving the socialist market economy and meeting WTO requirements ahead of China's accession," said Wang Qi, an IP law scholar at Beijing Technology and Business University.

By then, IP negotiations between China and the United States had dominated headlines, and the country was under intense stress from combating infringements and counterfeits.

But it was also a time when Chinese people were gaining a preliminary awareness and understanding of IP concepts — seminars, presentations and training programs on IP were organized across the country.

In 1994, China joined the Patent Cooperation Treaty under the WIPO, engaging more deeply with the international system.

It seems like a period of adolescence, filled with both pain and growth. In 2000, the number of patent applications in China reached a milestone of one million.

"In the early years after the law was enacted, most clients were multinational corporations," recalled Long Chuanhong, head of the CCPIT Patent and Trademark Law Office, the oldest Chinese IP law firm.

After China acceded to the WTO in 2001, Chinese enterprises began prioritizing innovation, resulting in a surge in domestic patent applications and explosive growth of the patent agency industry, the IP attorney said in a report on China IP News.

A SHIFT TO INNOVATIVE DEVELOPMENT

The third revision in 2008 represents a turning point, a shift from merely following international standards to independently improving our systems, said Ma Yide, a professor at the School of IP under the University of Chinese Academy of Sciences.

The scholar noted that the revision embedded "enhancing innovation capabilities" into the law's purpose and added provisions mainly targeted at low patent quality, low infringement costs and patent rights abuse.

"Instead of responding to external pressures, this revision focused more on China's own needs for innovative development," Ma told Xinhua.

The effectiveness of legal support is evident: domestic patent filings surged, and China has taken the global lead in patent applications since 2019.

In 2020, the law underwent a fourth amendment, demonstrating a clearer shift towards a legal framework that is better aligned with the country's specific realities and challenges.

The latest revisions introduced punitive damages of up to five times the amount of financial losses for the right holder in intentional infringement cases, and the statutory compensation caps were raised to 5 million yuan (around $694,000).

The first beneficiary of the punitive damages was a French stroller company in a cross-border patent infringement case in the same year. The plaintiff sued three Chinese stroller manufacturers for infringing its invention patent. A court in north China's Tianjin ruled that the defendants pay punitive damages amounting to three times the plaintiff's losses.

"More foreign enterprises are choosing Chinese courts to resolve patent disputes," said Zhu Li, deputy head of the IP Court of the Supreme People's Court of China. "Today, China handles the largest number of patent cases in the world."

Patent law will continue to be updated with the times.

As this year's IP Week highlights AI, debates arise over AI-generated inventions and IP governance. "The law must adapt to new tech revolutions," said Professor Feng Xiaoqing of China University of Political Science and Law.

At a Monday seminar about the patent law, Shen Changyu, head of the CNIPA, called the 40th anniversary a milestone.

"Forty represents a prime age," Shen said. "The patent law will continue to improve to new heights."

http://chinaipr.mofcom.gov.cn/article/centralgovernment/202504/1991490.html

The Impact of Contractual Confidentiality Clauses on the Constitutive Elements of Trade Secrets and the Burden of Proof in Infringement Cases

The Supreme People's Court concluded an appeal concerning trade secret infringement, affirming that contractual confidentiality clauses may exempt the right holder from proving constitutive elements of trade secrets and may shift the burden of proof to the disclosing party in infringement cases.

Taiwan A Company filed a lawsuit claiming that during the execution of its Mold Procurement Contract with Henan B Factory (operated by Natural Person X), it disclosed to X a technical solution titled "a method for simultaneously adjusting the length and width of roller skates", which was protected as trade secrets (hereinafter referred to as the "disputed technical information"). X allegedly violated both statutory and contractual confidentiality obligations by disclosing the disputed technical information to Dongguan C Company, which subsequently used this information to file a utility model patent application (hereinafter referred to as the "disputed patent"). Taiwan A Company contended that X and Dongguan C Company jointly infringed its trade secrets and sought a court judgment declaring Taiwan A Company the rightful owner of the disputed patent, along with an order requiring X and Dongguan C Company to jointly compensate economic losses amounting to 960,000 CNY.

After trial, the court found that the Mold Order involved in this case stated: "The mold must be produced strictly in accordance with the design drawings provided by Taiwan A Company." The confidentiality clause of the Mold Procurement Contract stipulated: "Party B (Henan B Factory) shall keep the contents of this contract confidential and shall not disclose them to any third party without authorization. All materials provided by Party A (Taiwan A Company) to Party B shall be kept confidential and used solely for the purposes of this contract. Party B shall not reproduce, retain, or use Party A's data without Party A's written consent and shall return all materials to Party A upon contract completion, without disclosure to any other party." On March 28, 2016, Dongguan C Company filed a utility model patent application titled "Adjustable Roller Skates" with the CNIPA, which explicitly disclosed and utilized the disputed technical information.

The first-instance court held that: Regarding the disputed technical information, Taiwan A Company did not submit technical materials such as complete technical drawings, process documentation, or detailed explanations regarding the R&D process, technical background, distinctions from publicly known technologies, or any advancements. Thus, it could not be determined that the disputed technical information was not publicly known at the time of the accused infringement, and the information could not qualify as a trade secret. Accordingly, the court dismissed all claims of Taiwan A Company.

In the second instance, the Supreme People's Court determined that the accused infringement date is the filing date of the disputed patent, i.e. March 28, 2016. In this regard, this case should, in principle, be governed by the Anti-Unfair Competition Law of the People's Republic of China enacted in 1993 (hereinafter referred to as the "1993 AUCL"). However, compared to the 1993 AUCL, the current Anti-Unfair Competition Law introduced rules for shifting the burden of proof in Article 32 in its "Legal Responsibility" Chapter, which specifies the circumstances under which the alleged infringer shall bear the burden of proving that the disputed information claimed by the right holder is not qualified as a trade secret, and that they committed no act of trade secret infringement. Article 32 combines substantive and procedural legal norms. The allocation of the burden of proof falls under procedural law. Following the principle that procedural provisions of

the new law shall prevail, this provision may be applied to ongoing civil cases. Additionally, one of constitutive elements of a trade secret is "not publicly known", which is a negative fact, and trade secret infringements are often concealed, making both elements difficult to be proven. In adjudicating trade secret infringement cases, courts may - based on the specific circumstances of each case - appropriately determine the evidentiary standards for establishing secrecy and improper means, while flexibly shifting the burden of proof as appropriate to strengthen judicial protection of trade secrets, alleviate rights holders' evidentiary burdens, and reduce legal defense costs. Therefore, in trade secret infringement cases arising from acts predating the current Anti-Unfair Competition Law, Article 32 may be legally applied to allocate the burden of proof related to the trade secret.

In practice, many trade secret infringement cases arise from breaches of contractual confidentiality obligations, where confidentiality clauses typically define the parties' duties. Regarding the burden of proof for whether the confidential information corresponding to the confidentiality obligation constitutes a trade secret, based on party autonomy and Article 32 of the current Anti-Unfair Competition Law, it can be further clarified that in trade secret infringement disputes arising from breaches of contractual confidentiality obligations, the parties' agreement on confidentiality clauses during contract execution may be deemed as mutual recognition that the protected information constitutes trade secrets. Where one party claims that the aforementioned confidential information does not constitute a trade secret as defined under the Anti-Unfair Competition Law, such party shall bear the burden of proof. Where the confidential information provider provides evidence demonstrating that the information used by the counterparty is substantially identical to its protected confidential information, the counterparty shall bear the burden of proving the absence of trade secret infringement.

This trade secret infringement dispute arose from the Mold Procurement Contract in this case, which is substantively a processing contract. The confidentiality provisions of the contract reflected Taiwan A Company's intent to maintain secrecy, Henan B Factory's confidentiality obligations, and the corresponding scope of protected information. By signing this contract, X is deemed to have acknowledged that the information provided by Taiwan A Company during contract execution constituted Taiwan A Company's trade secrets. In this case, X and Dongguan C Company shall bore the burden of proving that the disputed technical information did not qualify as a trade secret under the Anti-Unfair Competition Law. However, they did not submit evidence proving either that the roller skate products incorporating the disputed technical information had been publicly marketed at the time of the accused infringement, or the said information had been publicly disclosed at that time. That is, no evidence was presented to show that the disputed technical information had been known by the public when the infringement occurred. X and Dongguan C Company therefore shall bear the legal consequences of their failure to meet the burden of proof, and the disputed technical information hereby meets the definition of trade secrets under the 1993 Anti-Unfair Competition Law. During the execution of the contract, Taiwan A Company provided the disputed technical information to X, and the disputed patented technical solution incorporated this information. Therefore, X and Dongguan C Company shall provide evidence to prove that they did not infringe upon Taiwan A Company's technical secrets, but they failed to submit any legitimate sources or research and development evidence for the disputed patented technical solution. X violated the confidentiality clauses of the contract by disclosing the trade secrets of another party, which he had acquired during the fulfillment of the processing contract, to Dongguan C Company. Subsequently, Dongguan C Company, as the applicant, and X, as the inventor, filed a patent application for the technical solution containing the disputed technical information, resulting in the public disclosure of the disputed trade secrets. Their actions jointly constituted an infringement upon the trade secrets of Taiwan A Company. The Supreme People's Court ultimately ruled that the disputed patent belonged to Taiwan A Company, and

ordered X and Dongguan C Company to jointly compensate Taiwan A Company for economic losses and reasonable expenses totaling 320,000 CNY.

This second-instance judgment clarifies that contractual confidentiality clauses can exempt the need to prove trade secret elements and shift the burden of proof in infringement cases. It reflects a judicial policy of strengthening trade secret protection, reducing the rights holder's evidentiary burden, and lowering legal defense costs, serving as a valuable reference for future trade secret infringement cases.

(2022) Zui Gao Fa Zhi Min Zhong No. 1981

Determination of Violation of the Hearing Principle in the Invalidation Examination Procedure

Where an invalidation petitioner solely asserted that a disputed patent lacked novelty and therefore also lacked inventiveness, without advancing any additional specific grounds for lack of inventiveness, and the patent administrative authority neither informed the patentee of other specific grounds for finding lack of inventiveness nor provided an opportunity for the patentee to present arguments thereon, yet proceeded to conclude that the patent possessed novelty but lacked inventiveness, the court shall uphold the patentee's claim that the invalidation procedure violated the hearing principle and constituted a violation of statutory procedures.

Company A owns the PCT invention patent "Liquid Crystal Alignment Layer". On January 18, 2018, Corporation B filed an invalidation request against this patent. The CNIPA issued an invalidation decision on September 25, 2018, declaring all patent claims invalid for lacking inventiveness. Dissatisfied with this outcome, Company A initiated administrative litigation with the court, seeking to overturn the invalidation decision and obtain an order for CNIPA to issue a new examination decision.

The first-instance court made a judgment to dismiss Company A's claims, prompting Company A's appeal to the Supreme People's Court. In its November 28, 2023 final judgment, the Supreme People's Court revoked both the first-instance court's ruling and CNIPA's decision, and ordered CNIPA to re-examine the invalidation request and issue a new decision.

The court's binding judgment determined that in patent invalidation examination procedure, CNIPA must formally notify all parties of the precise legal grounds, evidentiary materials, and established facts forming the basis of its invalidation decision. In addition, CNIPA must provide opportunities for the parties to submit observations and present arguments concerning these substantive grounds, probative evidence, and specific factual determinations - particularly before rendering any decision adverse to a party's interests. In the present case, the invalidation petitioner consistently asserted - throughout both the initial Invalidation Request document and the subsequent written Observations - that Claim 1 of the subject patent did not meet the inventiveness requirement solely due to its alleged lack of novelty in view of Evidence 2. Yet, the petitioner did not present any specific grounds challenging the inventiveness of Claim 1 of the subject patent. This position was reiterated during the oral proceedings, where the petitioner persisted in asserting lack of inventiveness based solely on the alleged lack of novelty. During the course of the oral hearing, while CNIPA did ask both parties whether Evidence 2 demonstrated any distinguishing features relevant to the assessment of inventiveness, it did not conduct a substantive investigation on whether those skilled in the art can easily think of the technical solution in claim 1 on the basis of Evidence 2 in combination with common knowledge in the art.

More significantly, CNIPA did not afford the patentee any opportunity to present arguments on this issue. In conclusion, the contested decision exceeded the patentee's reasonable anticipation within invalidation examination procedure and constituted a violation of the fundamental principle of hearing. It also constituted a violation of statutory procedure under Article 70(3) of the Administrative Procedure Law, and thereby should be revoked.

(2021) Zui Gao Fa Zhi Xing Zhong No. 888