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AFD China's Strategic Patent Advice Featured in Asia IP Magazine: Focusing on the Competitive Landscape

In a comprehensive feature on global patent filing strategies, the prestigious publication Asia IP has quoted Ms. Xia Zheng, Founder and Patent Attorney of AFD China, for her expert insights on a critical factor: understanding and countering competitor activity.

The article, titled “In which markets should you file for patent protection?” delves into the complex decision-making process businesses face when protecting their inventions overseas. It gathers opinions from leading IP lawyers across the Asia-Pacific region on factors ranging from market potential and manufacturing hubs to legal environments and international treaties.

Within this expert roundup, Ms. Zheng's commentary was highlighted in a dedicated section on “Competitors,” underscoring its significance in shaping a robust international IP strategy. She advised companies to be highly strategic in their filings, not just based on their own operations, but also in response to the moves of their competitors.

“If competitors have already built their patent portfolios in a market, or if the region serves as a concentration of competitors' R&D, production and sales activities, companies should establish defensive barriers through patent filings,” Ms. Zheng explained to Asia IP. She illustrated this point with a real-world example of pharmaceutical companies from Taizhou, Jiangsu Province, who are proactively filing patents in the U.S. and Japan precisely because of the large concentration of multinational pharmaceutical firms operating there.

Her advice also included a crucial defensive tactic: applying for patent protection in competitors' home jurisdictions. This approach can prevent competitors from using their home-field advantage to create freedom-to-operate barriers against your business.

This focus on the competitive landscape is a cornerstone of the strategic counsel AFD China provides to its clients. Moving beyond a purely market-driven model, AFD China helps businesses build defensive and offensive patent walls that safeguard their market position and restrict the technological iteration of competitors.

The feature in Asia IP reinforces AFD China's position as a thought leader in international patent strategy, offering practical, battle-tested advice to companies navigating the global IP arena.

Supreme People's Court Redefines Jurisdiction of China's Internet Courts

China's Supreme People's Court (SPC) has issued new provisions to adjust the case jurisdiction of the nation's specialized Internet Courts, effective November 1, 2025. The move aims to sharpen the courts' focus on novel and complex digital disputes that are central to the evolving digital economy.

The provisions signal a strategic shift for the Internet Courts in Beijing, Hangzhou, and Guangzhou. Their dockets will now prioritize pioneering areas of digital law, while transferring more traditional online disputes to other local courts.

Key Changes in Focus Areas

The most significant update is the introduction of four new case types under the exclusive jurisdiction of the Internet Courts:

1. Disputes over ownership, infringement, and contracts related to online data
2. Cases involving online unfair competition
3. Disputes over the ownership and infringement of online virtual property
4. Cases concerning online personal information protection and privacy rights

Concurrently, several categories of cases have been removed from the Internet Courts' purview. These include standard online financial loan contracts, certain copyright infringement cases related to online publication, and general online defamation disputes. This allows the Internet Courts to dedicate more resources to setting legal

precedents in emerging and complex digital fields.

Continued and Expanded Role

The Internet Courts will retain jurisdiction over several key areas, including:

1. Disputes related to internet domain names
2. Contracts for online shopping and services concluded via e-commerce platforms
3. Online public interest litigation filed by procuratorates

Furthermore, their jurisdiction now explicitly covers administrative and international cases related to the newly added focus areas, such as disputes over online data regulation and cross-border online unfair competition.

This jurisdictional refinement is expected to enhance the specialized capability of the Internet Courts, providing a more predictable legal environment for businesses operating in China's digital space.

10th China International Copyright Expo Concludes Successfully in Qingdao

The 10th China International Copyright Expo was successfully held in Qingdao, Shandong province, from October 16 to 18. The expo focused on the creation, application, protection, management, and services of copyrights in the digital age, featuring five specialized exhibition areas and hosting nine thematic seminars that showcased digital and intelligent innovations in China's copyright field.

Wang Zhicheng, head of the Copyright Administration, highlighted that the event effectively demonstrated how copyright empowerment is driving high-quality development in related industries. It also presented the latest achievements in

international copyright exchanges and cooperation.

As the only comprehensive and international national-level professional event in China's copyright sector, the expo provided a high-level platform for mutual learning among civilizations and created a favorable environment for innovators. Since its inception in 2008, the expo has been held biennially in cities including Beijing, Guangzhou, Suzhou, Hangzhou, and Chengdu.

It has now become a significant platform for showcasing copyright achievements, facilitating copyright trading, promoting the value transformation of copyrights, and strengthening international copyright cooperation.

Countries were released during the forum. Soso Giorgadze, Chairman of the National Intellectual Property Center of Georgia, and Wang Jian, Director of Zhejiang Lab and founder of Alibaba Cloud, delivered keynote speeches.

The forum was co-hosted by CNIPA, WIPO, and Shanghai Municipal People's Government. Over the three-day event, participants from China and abroad engaged in in-depth discussions on topics such as IP management in the AI era, IP governance and innovation ecosystem construction, and new commercialization paradigms for high-value patents.

https://english.cnipa.gov.cn/art/2025/10/20/art_1340_202131.html

The 22nd Shanghai International Intellectual Property Forum Held

The 22nd Shanghai International Intellectual Property Forum (SIIPF), themed "Intellectual Property and Artificial Intelligence," opened on October 18. The forum hosted the awards ceremony for the 5th Shanghai Intellectual Property Innovation Awards. Gong Zheng, Deputy Secretary of the Communist Party of China Shanghai Municipal Committee and Shanghai Mayor; Shen Changyu, Commissioner of China National Intellectual Property Administration (CNIPA); and Wang Binying, Deputy Director General of the World Intellectual Property Organization (WIPO), attended the opening ceremony and delivered speeches.

Shanghai Vice Mayor Xie Dong, CNIPA Deputy Commissioner Lu Pengqi, and WIPO Deputy Director General Wang Binying presented the awards to the winners of the Shanghai Intellectual Property Innovation Awards.

The BRI PC Best Practice Cases for Granted Chinese Patents from Belt and Road Partner

CNIPA Deputy Commissioner Attends 2025 World Manufacturing Convention Intellectual Property Protection and Utilization Matchmaking Conference

Recently, the 2025 World Manufacturing Convention Intellectual Property Protection and Utilization Matchmaking Conference was held in Hefei. Zhang Zhicheng, Deputy Commissioner of the CNIPA, and Li Zhong, Vice Governor of Anhui Province, attended the event and delivered speeches.

Zhang emphasized the need to actively foster a dynamic relationship of co-evolution and mutual reinforcement between intellectual property (IP) and artificial intelligence (AI). He called for accelerating institutional innovation in the field of IP, refining patent examination standards related to AI, and promoting the sound development of the AI industry. IP protection should be strengthened by leveraging AI and big data technologies to build an integrated online and offline protection system, supporting technological innovation in AI. He also urged efforts to strengthen the role of AI technologies in promoting patent

commercialization and utilization, develop diversified matchmaking platforms and application scenarios, and achieve efficient and precise alignment between supply and demand, thereby enhancing the benefits of IP utilization.

Principals responsible for CNIPA Intellectual Property Utilization Promotion Department, representatives from the WIPO, heads of IP administrative departments from several provinces, and enterprise representatives also attended the conference.

https://english.cnipa.gov.cn/art/2025/10/11/art_1340_201969.html

EPO-CNIPA Joint Communiqué on Extension of PCT ISA Pilot

The Patent Cooperation Treaty (PCT) pilot programme between the CNIPA and the European Patent Office (EPO) will continue until 30 November 2031. Nationals and residents of the People's Republic of China will continue to have the option to select the EPO as their International Searching Authority (ISA).

The CNIPA and the EPO are pleased to announce that the PCT pilot programme allowing Chinese applicants to designate the EPO as their ISA will continue until 30 November 2031.

The heads of the two offices agreed to the extension of the pilot at their bilateral heads of office meeting in Porto on 22 September.

Since its launch in December 2020, more than 770 enterprises, universities, and research institutes - nationals and residents of the People's Republic of China - have designated the EPO as their ISA, benefiting from fast, top-quality search reports and insightful written opinions that expedite the road toward European patent protection.

By choosing the EPO as their ISA, Chinese nationals and residents gain a strategic advantage. They can accelerate the European patent grant process when entering the European phase and bypass supplementary search, thereby saving substantial time and cost. Additionally, these applicants benefit from a 75% reduction in examination fees when requesting international preliminary examination under PCT Chapter II with the EPO. The pilot continues to accept up to 3,000 applications per year, maintaining broad access to its benefits, and the applications must be filed in English.

"As an important part of the cooperation between the CNIPA and the EPO, the pilot project has been widely welcomed by Chinese users since it was launched. More than 770 innovative entities have benefited from the pilot so far. We welcome the extension of the project, enabling Chinese entities to continue to choose the EPO as ISA and thus making it easier to apply for IP and get patent protection in Europe," said CNIPA Commissioner Shen Changyu.

"Our pilot scheme has proven its worth in practice. By simplifying procedures, reducing costs, and delivering tangible results to innovators, it exemplifies the impact of strategic international cooperation. Extending the programme until 2031 ensures that even more Chinese innovators can enjoy the European IP landscape with clarity and confidence. This extension is more than a signal of commitment between the EPO and the CNIPA - it is a direct endorsement of our shared mission to elevate innovation, reduce barriers, and strengthen cooperation across our regions," said EPO President António Campinos.

https://english.cnipa.gov.cn/art/2025/10/15/art_1340_202061.html

China's IP Progress an Achievement for Entire World, Says WIPO Chief

China's rapid development and robust protection of intellectual property has been praised by Daren Tang, director-general of the WIPO, as an achievement of great significance not only for the country itself but also for the world.

"The Chinese IP ecosystem cannot just be said to be one of huge quantity, but increasingly of high quality as well," Tang noted on Monday at the opening ceremony of the 14th China International Patent Fair in Dalian, Liaoning province.

He made these remark while recalling China's IP efforts over the past few years. This year, for example, China has entered the top 10 in WIPO's Innovation Index, becoming the highest-ranked among upper-middle-income economies. Additionally, 24 of China's innovation clusters have made it into the top 100 — the largest number for any country — with the Hong Kong-Guangzhou-Shenzhen area ranked first.

While lauding the increasingly strong IP filings in China, Tang also commended the country's strong momentum in green transition. This is evidenced by significant growth in electric vehicle, battery and solar output, which have surged to 36 percent, 53 percent and 18 percent, respectively. These advancements are collectively driving the green tech and artificial intelligence-enabled industries to comprise nearly one-fifth of the economy.

In response to the technological challenges posed by digital technologies, particularly in AI, he called for making necessary adjustments to support the integration of digital and industrial innovation.

"IP must continue becoming more accessible, serving not just the biggest enterprises, but also startups and small and medium-sized companies," he said. "It should support the aspirations of researchers and scientists, so

that laboratory results can create real impact on society and economy."

Furthermore, a comprehensive approach to IP should integrate various forms such as patents, trademarks and design into a cohesive business strategy, while policymakers also need to align IP policies across industrial, digital and creative sectors to foster innovation synergies, he added.

The 14th China International Patent Fair, which is scheduled to be held from Monday to Wednesday, aims to promote patent transformation and utilization to empower innovative development.

This premier national exhibition in the field of IP in China has evolved into a significant platform for exchanging innovations and fostering trade cooperation across a wide range of industries, both within the country and internationally.

<https://chinaipr.mofcom.gov.cn/article/centralgovernment/202510/1993484.html>

Top Court Nurtures Growth of Seed Sector

The Intellectual Property Court of the SPC, China's top court, has played a key role in revitalizing the seed industry by efficiently handling related intellectual property cases in recent years, helping to foster a sound legal environment for industrial development.

The court made the remarks on Monday ahead of World Food Day, observed annually on Oct 16. It likened seeds to the "chips" of agriculture, highlighting the importance of achieving self-reliance and strengthening the seed industry through judicial means.

Established on Jan 1, 2019, in Beijing, the national-level IP Court marked a major step in strengthening protection of intellectual property rights. The court, a division of the top court, handles appeals involving patents and

other complex technology-related cases nationwide.

Its establishment enables litigants dissatisfied with rulings made by intermediate courts at the city or prefecture level, or by specialized IP tribunals, to appeal directly to the top court, bypassing provincial high courts. The reform aims to unify trial standards in IP disputes, improve the quality of case handling, and create a more supportive legal environment for innovators.

According to data from the top court, between January 2019 and December 2024, courts nationwide accepted 3,100 first-instance civil cases and 604 second-instance cases related to new plant variety rights.

In 2024 alone, 887 first-instance disputes and 164 second-instance cases were filed — 5.5 times and 4.6 times, respectively, the annual average recorded between 2017 and 2018, before the IP Court was established.

While continuously standardizing litigation procedures, the court has also focused on improving judicial efficiency, said Zhu Li, deputy chief judge of the IP Court.

He said a guidebook on handling disputes over infringements of new plant variety rights is being drafted, which "will help further clarify the technical issues involved in such cases and ensure they are adjudicated more efficiently."

<https://chinaipr.mofcom.gov.cn/article/centralgovernment/202510/1993486.html>

Chinese Online Novel Adapted into Offline Experience at International Theme Park

An immersive haunted house based on the phenomenal Chinese fantasy web novel, *The Unruly Immortals*, made a stunning debut on Friday at the Universal Studios Singapore Halloween Horror Nights, marking the first

partnership between the Universal Studios Singapore and a Chinese online novel.

With the event running until Nov 1, this collaboration also marks the first time that a premier IP born on China's global story platform Yuewen has been adapted into a large-scale offline immersive experience at an international theme park.

The *Unruly Immortals*, written by Foxtail Pen under Yuewen, emerged as a groundbreaking online literary phenomenon in China in 2023, amassing over 11.3 million subscribers across Yuewen's online literature platforms. It has rapidly expanded into adaptations, including comics, animation and games, and its online community has generated tens of millions of views for fan-created content across major platforms.

At the Universal Studios Singapore, a theme park renowned for aggregating world-class entertainment IPs, the fantasy hit will be transformed into reality and put under the spotlight.

Guests will follow high school student Li Huowang as he navigates two conflicting realities. The haunted house blurs the lines between sanity and madness, challenging guests to question what is real as they journey through twisted hospital wards, ancient alchemy chambers and nightmarish temples in the protagonist's desperate search for a cure.

"I'm honored that *The Unruly Immortals* becomes the first Chinese literary intellectual property to be featured at Universal Studios Singapore. Turning words into a real-life experience has been a magical journey. I hope visitors from around the world enjoy this one-of-a-kind adventure where fantasy and reality come together," said the writer.

Hou Xiaonan, CEO and president of Yuewen, said the successful launch of *The Unruly Immortals* at Universal Studios Singapore marks a critical milestone for Yuewen in transforming its rich IP portfolio into world-

class entertainment experiences, as well as a vital means to connect with global fans.

This collaboration also epitomized Yuewen's accelerated steps of its global IP strategy. To date, the group has already launched over 1,800 comic titles and nearly a hundred animation adaptations overseas. It has also been promoting innovative international collaboration for IP development

This summer, Yuewen partnered with Switzerland Tourism to launch a featured route themed on The King's Avatar, and the big IP festival "Yuewen Wonderland" held in Singapore earlier this year drew nearly 500,000 visitors across the world.

<https://chinaipr.mofcom.gov.cn/article/copyright/202509/1993373.html>

China's Cultural IPs Find Resonance Abroad

A session on the New Cultural Ecosystem in the Era of Digital Intelligence, held during the Beijing Cultural Forum on Monday, highlighted how China's cultural IPs are incubated and reach global audiences.

For Justyna Katarzyna Szpakowska, whose nickname is Cui Hua, a Polish media worker who has lived in China for nearly two decades and labels herself a "superuser" and "observer" of China's cultural IPs, the trend is visible in everyday life.

"Foreign audiences are most drawn to depictions of real Chinese life and authentic human stories," she says. "When I first came to China, many foreigners' impressions stopped at kung fu and the Great Wall. Now they talk about The Three-Body Problem, short dramas and games. That's a real change."

Online literature was highlighted as one of the most mature and databacked examples of cultural IP exports. Yang Chen, vice-president

and editor-in-chief of Yuewen Group, stressed the central role of online novels.

"Web novels are our most valuable cultural assets," Yang says. They allow young writers to innovate at their will and, at the same time, connect with global readers, he adds.

According to an online literature report released by the Chinese Academy of Social Sciences, the overseas market for Chinese web literature reached 5.07 billion yuan (\$711.4 million) last year, a year-on-year increase of 16.5 percent, with overseas readership climbing to 352 million across more than 200 countries and regions.

WebNovel, a Chinese platform launched by Yuewen in 2017, has published over 10,000 translated works, assisted partly by AI translation into English, Spanish, Portuguese, German, French, and more.

By June, it hosted around 770,000 original stories, created by more than 400,000 overseas authors in their native languages, according to the group, reflecting the Chinese web novel model being localized worldwide.

Adaptations have further extended the reach of these IPs. The online novel Quanzhi Gaoshou (The King's Avatar) was adapted into an animation and marked its 10th anniversary this July with events co-hosted by the Swiss tourism board. Another hit, Qing Yu Nian (Joy of Life), was adapted into a TV series. Its second season is licensed to the Disney+ streaming platform, bringing Chinese storytelling to international viewers.

Influencer-driven content was also discussed as a growing cultural export. In the session, Qu Tao, vice-president of Joy Media, a multichannel network (MCN) company, says: "Our formula is uniqueness, altruism, and genuine interactions with fans." When these align, the creators established cultural IPs and attract followers.

The company now manages more than 100,000 influencers. Domestically, it helped

amplify Harbin's winter tourism (in Heilongjiang province) boom through influencer-driven videos. The company is now exporting the model globally.

Qu tells China Daily that the company is working with influencers from Poland, Russia and Georgia to share their daily experiences in China, while also training domestic creators to bring Chinese cultural heritage to international platforms.

"The overseas effect of online influencers is a significant trend. Many people abroad have a limited understanding of China," Qu says. "Influencers are now presenting China from grassroots perspectives in an authentic way."

Games, another powerful cultural carrier, act as translators and amplifiers of culture, says Yu Ruichao, vice-president of Tencent Interactive Entertainment. He cites examples such as a King of Glory skin (for game characters) inspired by Dunhuang flying apsaras and the integration of Kunqu Opera and Yueju Opera into gameplay, which present traditional culture in immersive ways to global audiences.

According to the China Audio-Video and Digital Publishing Association, Chinese self-developed games generated \$18.56 billion in overseas sales in 2024, up by 13.4 percent year-on-year.

The session underscored that cultural IP incubation is inseparable from both digital innovation and audiences' appetite for authenticity.

As Justyna Katarzyna Szpakowska put it, what resonates most with overseas viewers is not abstract symbols but real lives, daily routines, and human stories, which are reminders of why China's cultural IPs are increasingly finding resonance abroad.

<https://chinaipr.mofcom.gov.cn/article/copyright/202509/1993372.html>

CNIPA Deputy Commissioner Attends 2025 World Manufacturing Convention Intellectual Property Protection and Utilization Matchmaking Conference

Recently, the 2025 World Manufacturing Convention Intellectual Property Protection and Utilization Matchmaking Conference was held in Hefei. Zhang Zhicheng, Deputy Commissioner of the CNIPA, and Li Zhong, Vice Governor of Anhui Province, attended the event and delivered speeches.

Zhang emphasized the need to actively foster a dynamic relationship of co-evolution and mutual reinforcement between intellectual property (IP) and artificial intelligence (AI). He called for accelerating institutional innovation in the field of IP, refining patent examination standards related to AI, and promoting the sound development of the AI industry. IP protection should be strengthened by leveraging AI and big data technologies to build an integrated online and offline protection system, supporting technological innovation in AI. He also urged efforts to strengthen the role of AI technologies in promoting patent commercialization and utilization, develop diversified matchmaking platforms and application scenarios, and achieve efficient and precise alignment between supply and demand, thereby enhancing the benefits of IP utilization.

Principals responsible for CNIPA Intellectual Property Utilization Promotion Department, representatives from the WIPO, heads of IP administrative departments from several provinces, and enterprise representatives also attended the conference.

<https://chinaipr.mofcom.gov.cn/article/patents/202509/1993132.html>

SUPPLEMENTARY ISSUE

Examination and Determination of the Independent Research and Development Defense in a Trade Secret Infringement Case

The Supreme Court has concluded a trade secret infringement case involving Appellant Chongqing A Company, Respondents X, Y, and Z (natural persons), Changzhou B Company, and Chongqing C Company, with Third Party T (a natural person) participating in the first instance. The Court ultimately ruled that Changzhou B Company's defense - claiming independent development of the alleged infringing technical information - was unsubstantiated. Accordingly, it held natural persons X, Y, and Z, along with Changzhou B Company, legally liable.

Chongqing A Company claimed that the design parameters for core components, including rotors and blades, in the automotive rotary vane compressors in dispute constitute its technical secrets. Defendants X, Y, and Z, who were all former employees of Chongqing A Company, left Chongqing A Company and joined Changzhou B Company between March 2014 and August 2015, taking positions in its R&D and technical departments. On July 20, 2017, Chongqing A Company purchased two automotive air-conditioning compressors manufactured by Changzhou B Company from Chongqing C Company through notarized preservation. Subsequent disassembly and comparative analysis revealed that the products were identical to those of Chongqing A Company in both external design and internal layout, with tolerance coefficients of relevant parts fully matching its proprietary design drawings.

Upon receiving the report from Chongqing A Company, the public security authorities commissioned an appraisal, which concluded that the technical information corresponding to the 25 alleged secret points related to Chongqing A's "rotary vane automotive air-conditioning compressor" was not publicly known. A comparison between the accused infringing product, Model A, and these 25 secret points revealed 8 identical points, 10 substantially identical points, and 7 different points. During the investigation, X and Y admitted to the public security authorities that they had accessed production department blueprints during their employment with Chongqing A Company. Chongqing A subsequently filed a lawsuit against X, Y, Z, Changzhou B Company, and Chongqing C Company, requesting that the five defendants cease the infringement and jointly compensate for economic losses and reasonable expenses totaling CNY 1 million. In its initial filing, Chongqing A Company sought protection for 18 of the 25 secret points as trade secrets, but ultimately narrowed its claim to 12 secret points by the conclusion of the first-instance oral observations. In defense, Changzhou B Company argued that the accused technical information was independently developed, submitting evidence including its "2012-2013 Process Operation Instructions and Inspection Operation Instructions" and "2012-2013 Product Drawings" in support of this claim.

The first-instance court ruled that, the technical information in the accused Model A automotive air-conditioning compressor that was identical or substantially identical to Chongqing A Company's claimed secret points originated from technology independently developed by Changzhou B Company prior to the alleged infringement. Accordingly, the court found that Model A did not infringe upon the 12 secret points claimed by Chongqing A Company and dismissed the lawsuit. Chongqing A Company, dissatisfied with the ruling, appealed to the Supreme Court.

In the second instance, the Supreme Court held that:

First, the evidence submitted by Changzhou B Company was insufficient to prove that the accused product resulted from collaborative research and development. Although Changzhou B Company claimed that the relevant technology originated from a university in Xi'an and was reflected in automotive air conditioning compressor production drawings jointly developed by that university and a third-party company, it failed to provide the original physical or electronic copies of said drawings.

Second, the evidence submitted by Changzhou Company fails to establish that it had mass-produced and sold rotary vane automotive air-conditioning compressors using the same technology as the accused product before X, Y, and Z joined the company.

In determining whether Changzhou B Company's independent R&D defense could be sustained, the court could not limit its review to merely verifying whether the company had mass-produced and sold rotary vane automotive air conditioning compressors before the three individuals joined. Instead, it was necessary to conduct a further analysis of whether, prior to their employment, Changzhou B Company had already been mass-producing and selling rotary vane automotive air conditioning compressors with structures and parameters identical or substantially identical to those of the accused infringing Model A compressor notarially purchased by Chongqing A Company in 2017. Therefore, Changzhou B Company was required to demonstrate that it had developed and mastered technical information identical to or substantially identical to the alleged trade secrets before the three individuals joined, including proving that the provided carriers, such as drawings, were actually created before the three individuals joined Changzhou B Company, and excluding the possibility that Changzhou B Company independently supplemented and fabricated the relevant drawings after the litigation commenced. Additionally, it had to be shown that the specific content of the provided carriers, such as drawings, contained technical details identical or substantially identical to the trade secrets claimed. Upon review, the evidence provided by Changzhou B Company was found insufficient to satisfy these requirements.

Third, the evidence presented by Changzhou B Company fails to prove that the technical documentation, which allegedly reflects the trade secrets and predates the employment of X, Y, and Z, was the product of independent development. There are significant doubts across multiple aspects of the Changzhou B Company's submitted evidence. These concerns pertain not only to the completeness of its iterative R&D records and the formal authenticity of its design drawings and work instructions but also extend to the reasonableness of the information comparison between the drawings and the work instructions. Furthermore, even the company's delay in submitting these drawings and work instructions raises substantial questions.

Based on the foregoing analysis, Chongqing A Company, as the holder of the trade secrets involved in this case, has provided preliminary evidence establishing that the trade secrets in question were infringed upon by X, Y, Z, and Changzhou B Company. The defense raised by Changzhou B Company, which claimed that the allegedly infringing information was the product of its own independent development, is untenable. Consequently, the court of second instance overturned the first-instance judgment and ruled that Changzhou B Company, X, Y, and Z must immediately cease the infringement of Chongqing A Company's trade secrets related to rotary vane automotive air-conditioning compressors and jointly pay compensation for economic losses and reasonable costs totaling CNY 1 million. The judgment also specified the method for calculating late-performance penalties in the event of non-compliance with non-monetary obligations, such as the failure to cease infringement.

This case establishes that when an alleged infringer raises an independent development defense, the court must conduct a comprehensive and objective review of the evidence. This involves

assessing the evidence's relevance and its internal consistency through logical reasoning and everyday experience. The court's analysis and determination in this case offer a valuable framework for adjudicating independent development defenses in future trade secret cases.

(2023) Zui Gao Fa Zhi Min Zhong No. 1669

CNIPA Signals Renewed Commitment to Patent Prosecution Highway in Joining International Improvement Initiative

With the intensifying global competition in science and technology and the growing awareness of intellectual property protection, the efficiency of patent examination and the time required to obtain patent grants have become focal points for enterprises and innovators. The Patent Prosecution Highway (PPH), by virtue of its efficient examination mode, has garnered widespread attention and active implementation in China, providing strong support for faster protection and commercialisation of innovative achievements. Actively promoting the implementation and development of PPH programmes and continuously improving related mechanisms can offer innovators a more convenient and efficient patent examination channel.

PPH improvement initiative

The PPH is an international cooperation mechanism for patent examination, aiming to expedite the patent examination process through sharing of examination results among various patent examination authorities under the PPH cooperation agreement. Based on this mechanism, when at least one claim in an applicant's foreign patent application is allowable held by a foreign examination office or has positive examination result in its PCT international phase ('allowable in the earlier examination'), the applicant can file a request for accelerated examination of their corresponding Chinese patent application with the China National Intellectual Property Administration (CNIPA). Once such request is approved, the Chinese examiner will examine the Chinese application shortly thereafter.

Since launching its first PPH pilot programme in November 2011, the CNIPA has established PPH cooperation with the patent examination authorities of over 30 countries or regions, including the United States, Europe, Japan, South Korea, Russia, etc. To continuously provide applicants with efficient and convenient PPH services, the CNIPA has repeatedly extended the PPH pilot projects in collaboration with multiple foreign offices. In recent years, the CNIPA has received around five thousand PPH requests on average annually.

In 2024, the CNIPA joined the PPH Improvement Initiative under the cooperation between the intellectual property offices of China, the United States, Europe, Japan, and South Korea (IP5), setting the target average timeframes of 2024 for issuing the first Office Action (OA) under the PPH and for responding to applicants' observations under the PPH at three months, to further enhance the user experience. China's joining the improvement initiative has further committed to and ensured the high-speed operation of the PPH. According to our practical experience, this target has been achieved.

Requirements for Filing a PPH Request

Filing a PPH request with the CNIPA needs to meet the following requirements:

the corresponding Chinese application is an invention application and has been published;

the PPH request should be filed at the time of requesting substantive examination or after the application has entered the substantive examination procedure;

the pending claims of the Chinese application need to sufficiently correspond to the claims allowable in the earlier examination; and

when the PPH request is filed, the CNIPA has not started substantive examination of the Chinese application (ie, no OA has been issued).

In practice, the original claims of an application often do not correspond to the claims allowable in the earlier examination. Thus, the applicant needs to utilise the voluntary amendment opportunity to amend the pending claims in China to make them sufficiently correspond to the claims allowable in the earlier examination. Sufficient correspondence means that compared with the claims allowable in the earlier examination, the claims in China have identical or similar or narrower scopes. If a PPH request is rejected by the examiner due to insufficient correspondence, then before the CNIPA has started substantive examination of the application, the applicant generally has a chance to submit another PPH request. In that situation, the applicant needs to ensure the sufficient correspondence of the further amended claims, and the further amendments are made within the timeframe for voluntary amendments.

Advantages and disadvantages of using the PPH programme

Advantage one: accelerated examination

After a decision to approve the PPH request is issued, a first OA may be issued in two or three months, or possibly even sooner. The examination will be accelerated, resulting in a quicker grant of patents. As mentioned above, the PPH Improvement Initiative, which China joined in 2024, sets three months as the target average timeframe for issuing a first OA under the PPH, and for responding to applicants' observations under the PPH. According to the data for 2024, in cases where the CNIPA accepted a PPH request, the average time from approval of the PPH request to the issuance of a first OA was less than two months, far exceeding the target set by the improvement initiative. Additionally, the average time from approval of the PPH request to closure of the case was less than eight months, which is also quite fast for applicants.

Advantage two: reduced costs

In China, requesting PPH does not incur any official fee. Additionally, according to the data for 2024, in cases where a PPH request was approved, the average number of OAs was no more than two. Correspondingly, due to a reduced number of OAs, applicants can make fewer rounds of responses and spend fewer costs such as attorney fees for responding to OAs or extension fees.

Advantage three: higher allowance rates

The foreign or PCT application based on which a PPH request is filed for the corresponding Chinese application has undergone prior art search and examination and received a positive conclusion. Although patent examination standards vary among countries or regions worldwide, the principles for determining novelty and inventiveness are generally consistent. Therefore, it could be reasonably anticipated that applications under the PPH programme typically have higher allowance rates compared with applications not using the PPH programme.

In practice we also have observed higher allowance rates. Based on the statistics of PPH cases we have handled, almost all PPH requests filed with the CNIPA have been accepted. Among the cases which have been examined under PPH and have closed, about three per cent were granted without receiving any OA; approximately 46 per cent were granted after responding to one OA; about 24 per cent were granted after responding to two OAs; and the remaining cases were granted after responding to multiple OAs (including notification(s) of re-examination in the

re-examination stage), accounting for roughly 12 per cent; approximately 47 per cent of the cases were granted after responding to formality issues; among cases receiving novelty and inventiveness rejections, about 8 per cent were granted solely through argument without amendments, while about 27 per cent of the cases were granted after amendments were made. The grant rate was approximately 85 per cent.

Advantage four: applicability to invention applications filed under dual filing

Dual filing is a special system in China, which allows an applicant to submit both an invention patent application and a utility model patent application for the same technical scheme on the same day. This system is designed to offer applicants a more flexible patent protection strategy, enabling them to obtain quick protection by leveraging the relatively rapid grant process of the utility model application while also striving for longer-term protection through the invention patent application. However, for an invention patent application filed under the dual filing strategy, generally prioritised examination is not available. Therefore, when a dual filing strategy is used, the PPH programme is the primary avenue to expedite the examination of the invention patent application.

Disadvantage one: restrictions

While the PPH is used to accelerate patent examination, it also imposes restrictions, especially regarding the timing of requesting PPH and the sufficient correspondence of claims, which means that basically the claims should be limited to those allowable in the earlier examination, and that the amended claims should be filed before the final opportunity for voluntary amendments lapses.

Disadvantage two: potential impact on the strategy of filing divisional applications

In China, there is no continuation or continuation-in-part policy, and filing divisional applications is the only way to continue the prosecution of a patent application. When an initial parent application has closed and a first-generation divisional application is still pending, the condition for filing a second-generation application is that the first-generation divisional application has received a unity objection from the examiner.

In such circumstance, using the PPH for the first-generation divisional application may lead at least two issues:

1. the opportunity to file a second-generation divisional application will be completely lost, since the claims allowable in the earlier examination generally do not have unity defects; and
2. it is impossible to add other desired claims into the first-generation divisional application to seek protection, since the sufficient correspondence requirement limits the claims of the first-generation divisional application to only those allowable in the earlier examination.

Therefore, applicants need to consider, during the time window for filing divisional applications from the parent application, besides the one intended to request the PPH, whether it is necessary to file additional divisional applications in order to ensure that all other desired claims are included for seeking protection.

Conclusion

The implementation of the PPH Improvement Initiative signals the CNIPA's renewed commitment to the PPH programme, and the CNIPA has also achieved shorter examination timelines, fulfilling its commitment. China, along with Europe, the United States, Japan, and South Korea, has adopted the same examination timeline targets, not only enabling applicants to more accurately

anticipate the examination progress and thus better plan their patent filing strategies and business activities, but also further promoting the development of international patent examination cooperation.

The continuous investment of the CNIPA in the PPH programme brings significant benefits to innovation entities. As previously noted, the PPH programme can expedite patent examination, shorten the time to grant, and reduce patent costs. If innovation entities can conduct in-depth research and flexibly apply the PPH rules, it will greatly benefit their patent strategies.

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Huawei Chip Theft Case Verdict Now Final

A Shanghai court has stated that the convictions of 14 people involved in the theft of trade secrets related to chip technology developed by Huawei subsidiary HiSilicon have taken effect, in a ruling that underscores China's commitment to protecting intellectual property rights.

The IPR procuratorial department of the Supreme People's Procuratorate said on Wednesday that the first-instance verdict, which it guided and was handled by a Shanghai prosecuting authority, became effective after the defendants chose not to appeal within the 10-day period. The verdict was announced July 28.

The case involved the illegal acquisition of Wi-Fi chip technology valued at about 317 million yuan (\$44 million). The technology was considered crucial to Huawei's competitive edge in the high-tech sector.

Legal experts said the case highlights China's firm stance on judicial protection of IP and sets an important precedent for the protection of trade secrets in the high-tech industry. It also serves as a warning for companies about technology protection in compliance, innovation and talent mobility.

Huawei launched a Wi-Fi chip development project in 2011, later managed by HiSilicon. The company invested substantial resources into long-term independent research and development, acquiring technical information for Wi-Fi chips and implementing confidentiality measures.

One defendant, surnamed Zhang, was a former head of HiSilicon's radio-frequency chip development department. He left the company in February 2021 and founded Zunpai Communication Technology (Nanjing) Co the following month. Around the same time, Zhang recruited four key technical personnel from HiSilicon, appointing them as executives in charge of technical departments. The group, with comprehensive knowledge of Huawei's chip technology, decided to develop Wi-Fi chips similar to HiSilicon's.

To accelerate development and production, Zhang and his team recruited more HiSilicon employees, offering high salaries and career advancement. Seven more joined them. At Zunpai's request, these employees — before and after leaving HiSilicon — used improper means, including screenshots, copying and unauthorized data transfers via WeChat. They also sometimes colluded with two others still employed at HiSilicon to obtain technical information for Zunpai's chip development.

Zunpai experienced rapid growth, raising several hundred million yuan in Pre-A and Pre-A+ funding rounds in 2022. It completed its Series A financing in 2023.

In April 2024, the third branch of the Shanghai People's Procuratorate filed charges against the 14 individuals, including Zhang, who were accused of infringing on trade secrets. The case involved more than 40 items of cutting-edge technical information.

Prosecutors adopted a courtroom education approach, focusing on evidence, legal principles and emotional appeals. Ultimately, all the defendants pleaded guilty voluntarily.

The court sentenced Zhang to six years in prison, fined him 3 million yuan and banned him from the chip industry for five years. Four other key figures received sentences of three to five years and fines between 1.2 million yuan and 1.5 million yuan. The remaining nine were given suspended sentences and fines.

At the enterprise level, Zunpai was ordered to freeze about 95 million yuan in cash assets and destroy all related technologies.

<https://global.chinadaily.com.cn/a/202508/29/WS68b0fe9ba3108622abc9dbf7.html>