AFD China
INTELLECTUAL PROPERTY LAW OFFICE

Newsletter

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China Issued Revised IC Layout-Design Regulations

China has updated its legal framework for protecting integrated circuit layout-designs. The revised Regulations on the Protection of Layout-Designs of Integrated Circuits were promulgated by the State Council on August 4, 2026, and will take effect on October 15, 2026.

The supporting Rules for the Regulations on the Protection of Layout-Designs of Integrated Circuits, originally issued by the CNIPA in 2001, are also being updated. The revised draft was released for public comment on August 3, 2026, and the consultation period closed on September 3, 2026. The revised Rules are now pending official promulgation and entry into force.

To help you navigate these changes, we have prepared a clear and accessible overview of the new Regulations and the proposed supporting Rules.

Click here to read the outline.

China's Supreme People's Court (SPC) Issues AI Dispute Adjudication Guidance: Key IP and Data Implications

On 7 September 2026, the SPC issued the Opinions on Adjudicating Disputes Involving Artificial Intelligence in Accordance with Law (Fa Fa [2026] No. 10). The 24-provision document is the SPC's first set of adjudication guidance dedicated to AI disputes. In the absence of a standalone AI law in China, the Opinions provide more specific guidance on how existing laws - including the Civil Code, Copyright Law, Patent Law, Anti-Unfair Competition Law and Personal Information Protection Law - should be applied to AI-related disputes.

For overseas companies, rights holders and applicants engaged in AI research and development, product deployment, content generation, open-source software or data-related business in China, the following IP issues are particularly relevant:

• Copyright liability for AI-generated content: Liability may be allocated among developers, service providers and users by reference to factors including the type of AI service, sources of training data, each party's level of participation, preventive measures taken and profits obtained. A developer relying on a non-infringement defense may be required to provide information on training-data sources, training records, model operation and relevant technical basis.

• AI-assisted inventions: An AI-related invention may qualify for patent protection where it uses technical means to solve a technical problem and achieves a technical effect. A natural person who makes a creative contribution to the substantive features of an AI-assisted invention may be recognized as the inventor. Patent specifications must still satisfy the sufficiency-of-disclosure requirement.

• Open-source software: In assessing liability, courts will consider the type of open-source license, restrictions on rights, compliance measures and the level of information disclosure. An open-source developer or provider that supplies code modules free of charge and discloses their functions and security risks may, in appropriate circumstances, be exempt from liability for infringement resulting from another party's use.

• Data rights: Lawfully obtained data in which a party holds relevant rights and interests may be protected. Depending on the circumstances, data or datasets may receive protection under copyright, trade secret law or the Anti-Unfair Competition Law.

• Evidence and litigation: AI-generated content may be used as evidence of infringement, but courts will examine issues such as prompt design, consistency of repeated outputs, similarity to the asserted work, model training and content-filtering mechanisms. A party controlling key electronic evidence that refuses to produce it without legitimate reason may face an adverse inference.

The Opinions signal a more concrete phase in the judicial treatment of AI-related IP disputes in China. Overseas rights holders and businesses should consider reviewing training-data provenance, model-development records, open-source license compliance, documentation of human inventive contribution and preservation of electronic evidence before launching AI products or building IP portfolios in China.

For full translation of the Opinions, please click here to read.

SPC Seeks Public Comments on Draft Judicial Interpretations for the New Trademark Law

On 14 September 2026, the SPC of China released two draft judicial interpretations for public comment in preparation for the amended Trademark Law, which will take effect on 1 January 2027. The drafts are: (1) the Provisions on Several Issues Concerning the Temporal Application of the Trademark Law of the People's Republic of China (Draft for Public Comment); and (2) the revised Provisions on Several Issues Concerning the Trial of Administrative Cases Involving Trademark Registration and Validity (Draft for Public Comment). The consultation closes on 28 October 2026.

The first draft addresses which version of the Trademark Law should apply to civil disputes and to administrative cases involving refusal review, non-registration review, invalidation, cancellation and administrative penalties, and also sets transitional rules for opposition and invalidation periods and pending court cases. The second draft makes broader adjustments to the rules governing judicial review of trademark registration and validity decisions, covering prohibited and deceptive signs, distinctiveness of foreign-language and three-dimensional marks, generic names, well-known trademarks, agent filings, prior lawful rights and interests, copyright and name rights, geographical indications, malicious registration, evidence of trademark use and the relevant factual point in time for judicial review.

For foreign applicants, brand owners and overseas counsel, the drafts are particularly relevant to case strategy around the transition to the amended Trademark Law, as well as opposition, invalidation, cancellation, well-known trademark protection, prior-right claims and evidence of use. Both documents remain drafts for public comment and may be revised before final issuance.

For full translation of the drafts seeking for comments, please click here to read.

China Intellectual Property Annual Conference (CIPAC) Focused on AI and Trademark Law

This year's CIPAC was held in Beijing from Sept 8 to 9, centering on artificial intelligence, patent services, and the newly revised Trademark Law.

Under the theme of driving high-quality IP development during the 15th Five-Year Plan (2026-30) period, the conference featured one main forum, 13 sub-forums, and over 20 activities.

Participants from domestic and international IP-related government agencies, innovative enterprises, organizations, associations, and research institutions delivered keynote speeches and engage in in-depth exchanges over the two-day event.

Two forums specifically addressed AI, exploring pressing issues such as copyright challenges in large-model training data, generative AI ownership, and 6G. Other forums focused on corporate priorities like global IP protection, risk mitigation, the digital upgrade of copyright-driven industries, and premium intellectual property services.

The newly revised Trademark Law, passed by the Standing Committee of the National People's Congress in June and effective Jan 1, was a key topic, with a dedicated interpretation forum scheduled to help industry professionals understand its implications. Additionally, 135 IP institutions participated in the conference, offering services to innovation-driven entities.

Since its inception in 2010, the CIPAC has become one of Asia's largest and most impactful IP gatherings, serving as a platform to showcase China's IP progress, promote forward-looking discussions, connect service providers with innovators, and elevate the country's international presence in the IP arena.

https://chinaipr.mofcom.gov.cn/article/centralgovernment/202609/1997578.html

China Unveils Copyright Plan for 2026-30

China has unveiled its copyright development plan for the 15th Five-Year Plan period (2026-30), outlining goals to refine the legal framework, enhance law enforcement and leverage emerging technologies to promote cultural prosperity and advance the country's intellectual property development.

Released online by the National Copyright Administration on Monday, the plan targets the annual registration of 9.5 million works by 2030, up from 7.49 million in 2025.

The plan highlights the need to update copyright regulations in line with advances in big data, blockchain and artificial intelligence. It also focuses on strengthening protections for online literature, gaming, audiovisual content, and foundational and industrial software.

A key component of the strategy is the development of a fair-use system for AI training data, with the aim of balancing innovation with the protection of creators' rights. The plan also proposes fast-track channels for resolving copyright disputes in areas including e-commerce platforms, trade fairs, cross-border transactions, and licensing and import-export activities.

Over the next five years, China will work to standardize the copyright registration process, making it more efficient and user-friendly. Efforts will also be made to promote the commercial application of copyrights through exhibitions and trade events, allowing intellectual property rights to be more fully monetized.

Internationally, China will continue to engage in bilateral and multilateral negotiations on copyright rules. The plan emphasizes advancing domestic legislation and global treaty efforts to protect copyrights in folklore and works of intangible cultural heritage.

https://chinaipr.mofcom.gov.cn/article/centralgovernment/202609/1997649.html

China's Invention Patents Highlighted at Beijing Conference

China currently holds over 5.39 million valid domestic invention patents and 50.82 million valid domestic registered trademarks, according to the nation's top intellectual property regulator.

The figures were announced by the China National Intellectual Property Administration (CNIPA) at this year's CIPAC, taking place in Beijing from Tuesday to Wednesday.

The administration said China has led the world in Patent Cooperation Treaty (PCT) applications for seven consecutive years. Additionally, the country ranks among the top globally for filings of industrial designs under the Hague System and international trademarks under the Madrid System.

With the theme of promoting high-quality IP development during the 15th Five-Year Plan period (2026-30), the annual conference will include one main forum, 13 sub-forums, and over 20 activities focused on topics such as artificial intelligence, patent services, and the newly revised Trademark Law.

Since its launch in 2020, the conference has become one of Asia's largest and most influential IP events. It serves as a platform to showcase China's achievements in the IP sector, foster forward-looking discussions, connect service providers with innovators, and enhance China's international role in IP governance.

https://english.cnipa.gov.cn/art/2026/9/8/art_2975_208055.html

CNIPA and Rospatent Launch Focal Point Mechanism Pilot Project

In order to better serve the economic and trade exchanges between China and Russia and to assist enterprises from both countries in addressing intellectual property issues and concerns in the other country, the CNIPA and the Federal Service for Intellectual Property of the Russian Federation (Rospatent) have, after consultations, decided to jointly launch the CNIPA-Rospatent Focal Point Mechanism pilot project.

Both offices designated one officer each as IP focal point to provide consulting services on IP issues related to Chinese enterprises operating in Russia and Russian enterprises operating in China, and to support these enterprises in obtaining effective IP protection.

https://english.cnipa.gov.cn/art/2026/9/17/art_1340_208198.html

SUPPLEMENTARY ISSUE

SPC Ruling: If a Product Loses Money, Does the Company Still Have to Pay the Inventor?

China's SPC has ruled on a dispute over employee invention remuneration, clarifying an important principle: payment for an employee invention is conditional on the invention having generated economic benefits after being put into practice.

Case Background

X joined Company A in 2016 as a senior director of formulation process development, and left the company in 2021. Company A held the patent at issue, and X was one of six inventors. The product embodying the patent was approved for market in November 2019.

According to revenue data submitted by Company A, its operating profit in 2019 was negative. From 2020 to 2024, cumulative operating profit reached approximately RMB 480 million. However, as of 2024, the overall operating profit remained in deficit.

X sued Company A, seeking payment of employee invention remuneration. The first-instance court found that the existing evidence could not establish the operating profit of the product itself, and that a special audit was needed. Since X bore the burden of proof but refused to advance the audit fees, the court dismissed the claim.

The SPC's Decision

On appeal, the SPC ordered Company A to submit revenue and profit data for the product, and made three key findings.

First, the data submitted by Company A could serve as a basis for determining whether remuneration was owed and in what amount. There was no need for a separate audit to establish the product's operating profit. The first-instance court had erred in dismissing the claim solely because X was unwilling to advance the audit fees.

Second, Company A was required to pay X remuneration for the employee invention. Since Company A had generated actual operating profit each year from 2020 to 2024, it should pay the inventor a share of no less than five percent of the operating profit derived from implementing the technology, for a period of three to five consecutive years starting from the year the invention was successfully converted into production. The fact that the product as a whole remained in deficit was not a valid reason to refuse payment.

Third, the amount of remuneration should be determined by considering multiple factors, including the patent's contribution rate, the number of inventors, their technical contributions, and their contributions to implementation and conversion.

1) On the patent's contribution rate, the patent related to a formulation for the product and played a supporting role overall. Its successful conversion also depended on supporting production processes, and those responsible for converting the patent to production would have made corresponding contributions. Taking into account the respective contributions of antibodies and formulations, patented and non-patented production processes, and the patent inventors and implementation staff, the court determined the patent's contribution rate at 20 percent.

2) On the inventors' shares, the patent had six inventors. In the absence of evidence showing differing contributions, each inventor was presumed to have contributed equally, and the remuneration was to be divided equally among them.

3) On the calculation period and amount, the product began sales in 2020, so the remuneration period started from 2020. Considering Company A's research and development investment, the remaining term of the patent, and its profitability, the court set the payment period at five years, from 2020 to 2024, with a total operating profit base of RMB 480.18 million.

4) On the percentage, since Company A had no separate agreement on employee invention remuneration, the court applied the five percent rate under China's Law on Promoting the Transformation of Scientific and Technological Achievements.

Based on these factors, the SPC overturned the first-instance judgment and ordered Company A to pay X RMB 800,000 in remuneration for the employee invention.

Key Takeaways from the Ruling

Under Article 45,(1) of China's Law on Promoting the Transformation of Scientific and Technological Achievements, the determination of whether "economic benefits" have been obtained should generally be assessed on an annual basis, examining whether the entity generated operating profit in the relevant year of implementing the invention. The period begins in the year the patent was successfully converted into production, and the three-to-five-year period for extracting a share of operating profit should be determined by taking the profit situation into account.

Inventors are generally expected to prove that the employee invention has been implemented and converted, as well as the relevant operating profit. However, given that such evidence is typically held and controlled by the employer, and that inventors face practical difficulties and high costs in obtaining it, Chinese courts may order the employer to produce relevant evidence or apply rules on obstruction of proof to establish the facts.

(2024) Zui Gao Fa Zhi Min Zhong No. 907

SPC Ruling: Misappropriating Others' Technical Work for Patents Violates Attribution Rights

China’s SPC has issued a final judgment in a case concerning the right to be named as the inventor of a patented invention. The ruling clarifies that in disputes over inventor attribution, the party claiming to be the inventor bears the burden of proving that they made a substantive contribution to the invention. The court should make an overall assessment based on factors such as the individual’s professional background, job responsibilities, and familiarity with the invention in question. This case serves as a warning against falsely claiming inventor status and against dishonest conduct in innovation activities and patent application procedures.

A, a chip architecture engineer at a company, prepared a draft technical document in July 2022 and uploaded it to the company’s internal system in September 2022. In December 2023, A discovered that B, an employee from a different department, had used part of that technical document as the basis for four patent applications filed with the company’s patent system between October 2022 and March 2023. B had listed himself and two others as the inventors, all without A’s knowledge. All four patent applications were later granted.

A filed a lawsuit, asking the court to confirm that he was the true inventor of the four patents, that B was not an inventor, and that B should compensate him for financial losses and publicly apologize. B argued that he was the rightful inventor of the four patents.

The court of first instance compared the patent specifications and technical disclosure documents with A’s technical document, and found that the two were highly overlapping, with no substantive differences in the technical solutions. The two other individuals listed as inventors also testified in court that they were not the actual inventors.

The court held that A had made a creative contribution to the essential features of the four patents and should be recognized as the true inventor. B had not made any creative contribution and therefore was not an inventor. By claiming otherwise, B had infringed A’s right of attribution. The court confirmed A as the inventor, ruled that B was not an inventor, and ordered B to issue a public apology. B appealed.

During the second instance, B requested that the court obtain his work laptop from the company, claiming it contained research materials related to the patents. The company handed over the laptop in court. However, B did not attend the hearing without a valid reason and was unable to provide the correct password to access the laptop. As a result, the court could not review its contents, and B could not substantiate his claims.

The SPC made the following findings:

First, on the question of creative contribution, the evidence showed that the technical document was independently prepared by A and uploaded to the company’s internal system before B started the patent application process. The patent documents were either identical or substantially similar in key aspects to A’s document, including the background, technical problem, intended purpose, beneficial effects, specific embodiments, and drawings. B could not explain these similarities. The fact that some technical content was already publicly known did not affect the determination of inventorship. Given the timing, B’s access to A’s document, the lack of evidence showing B’s own research and development work, the testimony of the other named inventors that they had not participated in the R&D, as well as B’s professional background and conduct during the proceedings, the court concluded that the evidence was insufficient to establish B’s substantive contribution to the patents.

Second, on the question of liability, B had used his position to file patents based on A’s technical work without permission, and listed himself and others as inventors despite having made no creative contribution. This conduct seriously violated the principle of good faith, and B must bear corresponding civil liability.

The appellate ruling clarifies how courts should assess creative contribution in inventor attribution disputes and reinforces the importance of honesty and respect for others’ intellectual property rights in innovation activities.

(2025) Zui Gao Fa Zhi Min Zhong No. 491

SPC Ruling: Trade Secrets Must Be Reviewed Holistically and Cannot Be Invalidated by Piecemeal Disassembly

China’s SPC concluded a dispute over trade secret dispute. In its ruling, the Court established that: If a right holder, through repeated experiments, modifications, optimizations, and adjustments, has developed a complete technical solution that can be used in actual production and achieves good technical results, that solution cannot be deemed publicly known simply because individual pieces of information are disclosed separately in different pieces of prior art. In other words, courts must look at the whole technical solution, not just its isolated parts, when determining whether it qualifies as a trade secret.

This case involves a dispute over trade secrets. Company A filed a lawsuit with the first instance court, claiming that it was the rightful owner of certain trade secrets related to a production process and product preparation method for a product called PR3. Individual X, after leaving Company A, became a major shareholder and the legal representative of Company B. Company A alleged that X breached his confidentiality obligations by disclosing its trade secrets to Company B. Together with Company B, he then used those secrets for illegal gains and even filed a patent application based on them. Company A argued that this patent application caused its trade secrets to be disclosed to the public, seriously harming its legal rights and interests.

Company B and X jointly defended themselves. They argued that the patent application was developed independently by Company B. They claimed that Company A had not provided any R&D documents and therefore could not prove it was the true owner of the trade secrets. They also argued that the information at issue did not meet the legal requirements of being "not known to the public" and “being not easily obtainable,” and thus did not constitute a trade secret. Finally, they pointed out that there were many differences between the patent application and Company A's trade secrets, and that mere partial similarity did not mean the two were substantially the same.

After investigation, the first instance court made several key findings. First, Company A was indeed the owner of the trade secrets. When X joined Company A, he signed a confidentiality and intellectual property ownership agreement. This agreement stated that during and after his employment, he could not disclose or use any confidential information he learned while working at Company A. It also stated that Company A owned all work products created by X during his employment. While working at Company A, X had access to the standard operating procedures for producing PR3. After leaving Company A, he became an 80 percent shareholder of Company B. Company B then filed a patent application listing X and his wife as the inventors. The court also found that although some individual steps or parameters of Company A's technical information existed in the public domain, the entire technical solution as a combination of steps and parameters was not widely known within the industry. Company A had also taken reasonable confidentiality measures to protect its information. Therefore, the court concluded that Company A's technical information qualified as a trade secret. As for Company B and X's defense of independent development, the court found that the evidence they provided did not show any specific research projects, processes, parameters, or results. Moreover, the equipment they used was not specifically dedicated to implementing the technology claimed in the patent. Their evidence was therefore insufficient to prove independent development. When the court compared the patent application with Company A's trade secrets, it found that the patent application used and partially disclosed those trade secrets. Furthermore, Company B's own website, as well as its Chinese distributor's website, contained promotional and sales information for PR3 products. Based on this, the court determined that Company B had actually used Company A's trade secrets to produce PR3 products. X had breached his confidentiality obligations by disclosing

Company A's trade secrets to Company B and allowing Company B to use them. Together, they had misappropriated Company A's trade secrets, and shall bear joint and several liability to cease the infringement and compensate for the losses.

As a result, the first instance court ordered both Company B and X to stop their infringing activities and to bear joint liability for damages. The court also ruled that during the term of the patent, neither Company B nor X could exploit or license the patent to others. Both defendants appealed, but the SPC upheld the lower court's decision.

Company B and X appealed.

The SPC issued its judgment, rejecting the appeal and upholding the original ruling. In its effective decision, the Court identified the one of the key issues was whether the technical solution qualify as a trade secret under the law.

The SPC stated that technical information claimed for protection by a right holder must satisfy three requirements set forth in Article (4) of the Anti Unfair Competition Law. 1) The information must not be publicly known. 2) It must have commercial value. And 3) the right holder must have taken reasonable confidentiality measures to protect it.

In this case, neither Company B nor X raised any objection against the commercial value of the technical information. Therefore, the Court confirmed that requirement 2) was met. The Court then examined the remaining two issues separately:

1. Did Company A Take Reasonable Confidentiality Measures?

In this case, the main carrier of the trade secret was Company A's internal standard operating procedures. These procedures contained a complete technical solution for producing the relevant product. They were clearly a core trade secret of Company A. X had signed an Employee Confidentiality and Intellectual Property Ownership Agreement with Company A. The agreement clearly stated that during his employment, all research and development information and results, including technologies, products, systems, and any work or information completed by X, would be considered confidential information. X was not allowed to disclose this confidential information or use it for any other purpose. The agreement also stated that X would continue to treat the information as confidential even after his employment ended. Company A had a clear intention to keep the technical information confidential and imposed clear confidentiality requirements. X was fully aware of these requirements. In the first instance proceedings, X also acknowledged that the premise where Company A's laboratory and R&D offices were located was equipped with an access control system.

Based on the above, the Court concluded that Company A not only clearly defined X's confidentiality obligations through a contract, but also took reasonable confidentiality measures. Therefore, the argument by Company B and X that Company A had failed to take reasonable confidentiality measures was rejected.

2. Was the Trade Secret in Question Publicly Known?

The trade secret in question contained a large amount of technical information and formed a relatively complete technical solution. Even if some individual pieces of that information were publicly known, courts must still consider how those pieces relate to each other and whether the overall technical solution as a whole is publicly known.

In this case, the fact that isolating and purifying PR3 from certain blood cells was a known technique did not mean the entire standard operating procedure was publicly known. The standard operating procedure involved many specific steps, their order, reagents and their concentrations, and various operating parameters. Developing a complete technical solution that could be used in actual production and achieve good results would necessarily require repeated experiments, modifications, optimizations, and adjustments, as well as significant research and development costs. Therefore, the Court held that information separately disclosed in different pieces of evidence could not prove that the entire trade secret or each specific step corresponding to each secret point was publicly known. Accordingly, the defendants' argument failed.

This decision clarifies the standard for determining whether confidentiality measures are reasonable. It establishes that courts must review trade secrets holistically rather than dissecting them into isolated parts. It effectively shuts down the common defense strategy of trying to dismantle a core technology by claiming each individual component is publicly known. Most importantly, it strengthens judicial protection for corporate research and development investments and core competitiveness, and serves as an important model for maintaining fair competition and encouraging technological innovation.

(2023) Zui Gao Fa Zhi Min Zhong No. 2913

SPC Ruling: Misappropriating Others' Technical Work for Patents Violates Attribution Rights

The SPC has issued a final judgment in a case concerning the right to be named as the inventor of a patented invention. The ruling clarifies that in disputes over inventor attribution, the party claiming to be the inventor bears the burden of proving that they made a substantive contribution to the invention. The court should make an overall assessment based on factors such as the individual’s professional background, job responsibilities, and familiarity with the invention in question. This case serves as a warning against falsely claiming inventor status and against dishonest conduct in innovation activities and patent application procedures.

A, a chip architecture engineer at a company, prepared a draft technical document in July 2022 and uploaded it to the company’s internal system in September 2022. In December 2023, A discovered that B, an employee from a different department, had used part of that technical document as the basis for four patent applications filed with the company’s patent system between October 2022 and March 2023. B had listed himself and two others as the inventors, all without A’s knowledge. All four patent applications were later granted.

A filed a lawsuit, asking the court to confirm that he was the true inventor of the four patents, that B was not an inventor, and that B should compensate him for financial losses and publicly apologize. B argued that he was the rightful inventor of the four patents.

The court of first instance compared the patent specifications and technical disclosure documents with A’s technical document, and found that the two were highly overlapping, with no substantive differences in the technical solutions. The two other individuals listed as inventors also testified in court that they were not the actual inventors.

The court held that A had made a creative contribution to the essential features of the four patents and should be recognized as the true inventor. B had not made any creative contribution and therefore was not an inventor. By claiming otherwise, B had infringed A’s right of attribution.

The court confirmed A as the inventor, ruled that B was not an inventor, and ordered B to issue a public apology. B appealed.

During the second instance, B requested that the court obtain his work laptop from the company, claiming it contained research materials related to the patents. The company handed over the laptop in court. However, B did not attend the hearing without a valid reason and was unable to provide the correct password to access the laptop. As a result, the court could not review its contents, and B could not substantiate his claims.

The SPC made the following findings:

First, on the question of creative contribution, the evidence showed that the technical document was independently prepared by A and uploaded to the company's internal system before B started the patent application process. The patent documents were either identical or substantially similar in key aspects to A's document, including the background, technical problem, intended purpose, beneficial effects, specific embodiments, and drawings. B could not explain these similarities. The fact that some technical content was already publicly known did not affect the determination of inventorship. Given the timing, B's access to A's document, the lack of evidence showing B's own research and development work, the testimony of the other named inventors that they had not participated in the R&D, as well as B's professional background and conduct during the proceedings, the court concluded that the evidence was insufficient to establish B's substantive contribution to the patents.

Second, on the question of liability, B had used his position to file patents based on A's technical work without permission, and listed himself and others as inventors despite having made no creative contribution. This conduct seriously violated the principle of good faith, and B must bear corresponding civil liability.

The appellate ruling clarifies how courts should assess creative contribution in inventor attribution disputes and reinforces the importance of honesty and respect for others' intellectual property rights in innovation activities.

(2025) Zui Gao Fa Zhi Min Zhong No. 491

How to Define the Scope of a Claim That Is Formally Dependent but Substantively Independent

The SPC has issued a final judgment in a dispute over infringement of an invention patent, providing important guidance on how to determine the scope of protection for claims that are formally dependent but substantively independent. The Court held that when a dependent claim, upon examination, is found not to be a further limitation on the independent claim from which it depends, it should be treated as an independent claim. When determining the scope of protection, courts must distinguish between such a claim and the claim to which it formally refers to. Moreover, the claim and its corresponding embodiments cannot automatically be used to interpret the scope of the claim to which it formally refers to.

In this case, Company A is the patentee of the disputed patent. The patent includes one independent claim, Claim 1, and several dependent claims, including Claims 7 through 9. During the patent invalidation proceedings, Claims 7 through 9 were declared invalid by the CNIPA, and that decision became effective.

Company A later filed a patent infringement lawsuit against Company B and Company C. The first instance court found that the accused technical solution did not fall within the scope of protection of the patent and dismissed Company A's claims. Company A appealed to the SPC.

In its second instance ruling, the SPC identified the core dispute as follows: how should the scope of protection of Claim 1 be defined, and in particular, whether the already invalidated Claims 7 through 9 and their corresponding embodiments can be used to interpret the scope of Claim 1.

The SPC made the following determinations.

First, although Claims 7 to 9, which have been declared invalid, are formally dependent on Claim 1, the two are in essence relatively independent and distinct technical solutions. Claims 7 to 9 are not further limitations imposed on Claim 1.

Second, the embodiments in the patent specification corresponding to Claims 7 through 9 should not be included into the protection scope of Claim 1. The technical solution of those embodiments corresponds to Claims 7 through 9, not to Claim 1. In particular, since Claims 7 through 9 have already been declared invalid, the embodiments corresponding solely to those claims should no longer be protected.

The SPC judgement took a careful consideration of the logical relationships among the different claims and the correspondence between each claim and the embodiments described in the specification. The ruling accurately defines the scope of protection for claims that are formally dependent but substantively independent. It maintains consistency with the scope of protection as determined in the patent invalidation proceedings, while also clarifying the rules for patent infringement determinations. This decision provides a useful reference for accurately defining the scope of patent protection in future cases.

(2023) Zui Gao Fa Zhi Min Zhong No. 1476