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China Improves Administrative IP Enforcement

The State Council recently promulgated the Opinion on Making Publicly Available According to Law Information on Administrative Penalties Concerning the Production and Sale of Fake, Counterfeit and Sub-standard Goods and Intellectual Property Infringement.

This Opinion sets forth specific requirements regarding the information that must be disclosed, such as the name of the offending party, their legal representative, legal basis for the punishment, and person(s) who decided the case.

Generally disclosure is principally to be made via the Internet. In most cases disclosure should be made within 20 days after the punishment decision. However, if the decision involves public health and safety, it should be made immediately available

It shows a commitment to greater transparency of administrative agency, and appears to be occurring in tandem with efforts to improve transparency in the courts.

http://www.gov.cn/zwjk/2014-02/19/content_2612388.htm

Pharmaceutical Patent Linkage in Drug Registration Rule

A new public comment draft of the Drug Registration Rule (DRR) was posted on the Legislative Affairs Office of the State Council of China's website on Feb 19, 2014, with comments due March 23, 2014.

It has references to patents, which particularly provides in Art 19: An applicant can submit a drug registration application when another party has obtained a patent in China for the pharmaceutical product. China Food and Drug Administration (CFDA) will review the application in accordance with these Rules, and if the applicant is in conformity with these Rules, the drug will be granted a drug approval number, and an "Imported Drug License" or "Drug License", with the registration coming into effect upon expiration of the patent term. Article 18 further requires a declaration or explanation of non-infringement by the generic applicant when there is a relevant Chinese patent relating to the drug approval Patent disputes, according to Article 18, are to be governed by relevant patent law.

<http://www.chinalaw.gov.cn/article/cazjgg/201402/20140200394953.shtml>

China's Copyright Registrations Hit Record High

Annual copyright registrations in China exceeded 1 million in 2013 and hit a record high.

More than 845,000 of the registrations were publications such as photographs and about 165,000 were software, which added that the number of copyright pledges surpassed 200.

About 60,000 people suspected of intellectual property rights infringement were seized by police last year, amid a crackdown on the crime. Those people came under suspicion in more than 55,000 cases with an estimated value of 173 billion yuan (about \$28 billion), according to the Ministry of Public Security.

<http://www.chinaipmagazine.com/en/news-show.asp?id=6643>

Software Legalization Achieved New Progress in China

National Copyright Administration of China (NCAC) decides to shift working priority to the consolidation of achieved accomplishments on software authentication.

As of the end of December 2013, governmental departments at municipal and county level have completed the rectification in using legal software and 79.7% central and local governments have guided their affiliated departments through the fulfillment of installing legitimate software while 20,848 out of 29,729 enterprises have purchased authorized software with state owned

enterprises, large and medium scale financial entities and headquarters in press industry all equipped with licensed software.

In terms of software procurement, since October 2010 when China started calling for its governmental departments to use legal software, a total of 5,920,900 sets of authorized software (64.42% were made in China) and antivirus applications have cost 3.438 billion yuan, in which 34.07% was spent on local software.

http://www.chinaipr.gov.cn/newsarticle/news/governme nt/201402/1799103_1.html

China's Antitrust Bureau Confirms Probe of InterDigital

China's antitrust watchdog that it is investigating InterDigital Inc and the US technology company has applied to have the probe halted after months of cooperation.

The antitrust bureau under China's National Development and Reform Commission said the bureau started the probe in May 2013 after receiving reports of irregularities. The company has responded to the inquiry actively since then.

Earlier, the wireless research and development company issued a statement, saying InterDigital executives "indicated to NDRC apologies that the company had misunderstood Chinese law and NDRC's rule and procedures in that regard".

<http://www.chinaipmagazine.com/en/news-show.asp?id=6632>

China Slams US 'Notorious Markets List' Accusation

The Notorious Market List 2013 issued by the Office of the US Trade Representative (USTR) named three Chinese websites and five physical marketplaces as "notorious" for alleged copyright piracy and trademark counterfeiting.

"The results are merely based on very vague sources like 'rights holders' or 'reportedly' when accusing Chinese marketplaces," said the ministry's spokesman, Shen Danyang, at a press conference. "We urge the U.S. office to conduct an overall, objective and fair review of Chinese firms' efforts and progress in intellectual property rights protection."

In addition, it is also noted that the USTR Office removed paipai.com, an e-commerce website owned by Chinese Internet giant Tencent Inc, from its 2013 list, due to the facts that the Chinese website had taken various measures to address complaints about its role in facilitating the distribution of pirated and counterfeit goods.

Chinese companies are clearly making progress in fighting pirated and fake goods. Taobao.com, which is owned by Alibaba Group Holding Ltd, is one of the leading B2C marketplaces and was removed from the USTR list in 2012. Meanwhile, Baidu Inc, another Chinese Internet giant, was removed from the list in 2011.

http://www.chinaipr.gov.cn/newsarticle/news/chinaworld/201402/1799811_1.html

Chinese Supreme Court Orders Re-trial in Castel Trademark Battle

French winemaker Castel, which was on the receiving end of one the largest ever damages rulings in China, has succeeded in blocking the fine after appealing to the country's Supreme Court.

The Supreme People's Court suspended the fine which would have forced the company to pay a local wine producer RMB34 million (\$5.6 million).

Castel has been locked in this trademark dispute with Chinese businessman Li Dao Zhi over its use of the words Ka Si Te, a transliteration of Castel, which Li was already using for his company Shanghai Banti Wine.

The dispute dates back to April last year when Castel was ordered to pay the fine at the first instance by the Wenzhou Intermediate Court and at second instance by the Zhejiang Provincial High Court. Convinced the courts were wrong; Castel pursued an appeal at the Supreme People's Court, which was accepted in October. A date for the retrial has not been set.

Castel, which was established in 1949, had been using the words Ka Si Te for its marketing in China but failed to get the term registered as a trademark. But Li became the trademark's rightful owner as registered the trademark himself.

<http://www.chinaipmagazine.com/en/news-show.asp?id=6622>