

## **Table of Contents**

Client Satisfaction Survey 2016 .....	1
Trademark Registration Fee Reduces by 50% .....	1
SIPO Seeks Public Comments on Draft Administrative Measures for Prioritized Patent Examination .....	1
Beijing Higher People's Court Revises the Guidelines for Determining Patent Infringement .....	1
147,000 IPR Cases in the First-instance Concluded in 2016 .....	2
Policy Released to Address Counterfeits .....	2
OLAER Won Trademark Battle against TRAB .....	3
Understanding Design Patent Practice through the Jaguar Land Rover Case .....	supplementary issue

### **Client Satisfaction Survey 2016**

In line with our commitment to continuous improvement, we are looking to examine our performance in the year of 2016. We would be grateful if you could click

<https://www.surveymonkey.com/r/2D6TWFQ>

to respond to our short online questionnaire.

It should take no more than 5 minutes of your time to complete. This client survey will run from April 25, 2017 **until May 15, 2017**.

By participating in this survey you will be making an important contribution helping us to improve and to serve you better. Should you have any questions about this survey, please feel free to contact us.

Thank you very much!

### **Trademark Registration Fee Reduces by 50%**

On March 30, an announcement issued by the Trademark Office of the State Administration for Industry & Commerce said that from April 1st, trademark registration fee would reduce by 50%. It also said the reduced charges covered 13 items, and the basic trademark registration fee would decrease from 600 Yuan to 300 Yuan.

<http://afdip.com/index.php?ac=article&at=read&did=2740>

### **SIPO Seeks Public Comments on Draft Administrative Measures for Prioritized Patent Examination**

The State Intellectual Property Office of China (SIPO) has published the Administrative Measures for Prioritized Patent Examination (Draft for Comment) (Chinese version only) to solicit opinions from the public.

Comments and suggestions can be sent to SIPO via the website of the Legislative Affairs Office of the State Council of China (<http://www.chinalaw.gov.cn>) or by email ([tiaofasi@sipo.gov.cn](mailto:tiaofasi@sipo.gov.cn)) before the deadline of 6 May 2017.

[http://www.sipo.gov.cn/tz/201704/t20170407\\_1309354.htm](http://www.sipo.gov.cn/tz/201704/t20170407_1309354.htm)

### **Beijing Higher People's Court Revises the Guidelines for Determining Patent Infringement**

On April 20, 2017 the Beijing Higher People's Court released the newly revised Guidelines for Determining Patent Infringement.

The Guidelines were originally issued in 2013. This time it was revised based on the trial work experience of the court system in Beijing in the past years and by taken reference of the relevant laws and regulations and recent judicial interpretations.

The Guidelines have a total of 153 articles with about 2.1 million words. It provides guidelines for determining the protection scope of patent, infringement on patent, acts of patent infringement and for acceptable defense of patent infringement.

It also set rules for the first time for standard essential patents, graphical user interface designs, and other hot issues.

We will follow up the topic with more insightful reviews in the next issues

<http://bjgy.chinacourt.org/article/detail/2017/04/id/2820310.shtml>

### **147,000 IPR Cases in the First-instance Concluded in 2016**

Latest statistics from the Supreme People's Court (SPC) showed that courts nationwide concluded 147,000 IPR cases in the first instance in 2016.

According to SPC, Nanjing, Suzhou, Wuhan and Chengdu have set up their own IPR adjudication divisions, which could handle cross-region IPR cases. As efforts to facilitate the innovation-driven innovation strategy and improve law system for IPR protection, SPC formulated new judicial interpretations for hearing patent disputes. Meanwhile, SPC has concluded several IPR cases with a social impact and gained extensive attention.

Meanwhile, according to the 2017 annual work report released by the Supreme People's Procuratorate (SPP), the prosecutorial system nationwide actively

promoted scientific innovation in 2016 and issued 15 opinions to guarantee scientific innovation. At the same time, the prosecutorial system nationwide endeavored to crack down IPR crimes and instituted public prosecutions against 21,505 suspects. In 2016, 29 provinces, regions and municipalities including Hubei province, Yunnan province and Ningxia Hui Autonomous Region, have set administrative enforcement and criminal justice information sharing platforms against infringement and counterfeit.

[http://english.sipo.gov.cn/news/iprspecial/201703/t20170329\\_1309077.html](http://english.sipo.gov.cn/news/iprspecial/201703/t20170329_1309077.html)

### **Policy Released to Address Counterfeits**

The State Council has recently released a new policy to crack down on intellectual property infringement.

Targeting at cross-regional and organized illegal businesses, the new policy calls for increasing fight against the production, distribution and sale of counterfeit goods.

The efforts will include implementing new technologies, including big data and cloud computing, to enhance market supervision and inspection, and improved coordination between legal and administrative agencies. The policies will also advance the credit system and facilitate cooperation in IP protection overseas.

[http://english.sipo.gov.cn/news/iprspecial/201704/t20170405\\_1309240.html](http://english.sipo.gov.cn/news/iprspecial/201704/t20170405_1309240.html)

### **OLAER Won Trademark Battle against TRAB**

Recently, Beijing Higher People's Court affirmed a judgment to revoke the decision made by Trademark Review and Adjudication Board (TRAB) under the State Administration of Industry and Commerce (SAIC) of China in the trademark case of 奥莱.

The No.7416906 奥莱 trademark was owned by Hong Kong-based Chuangtao Company, which was filed for registration in May 2009, certified to be used on Class 7 goods including welding equipment, farm machinery, machine axis and so on. The No.3413701 奥莱尔 trademark owner was OLAER Industries, which was filed for registration in December 2002, and it was certified to be used on Class 7 goods including hydraulic modulator and so on.

On February 13, 2013, OLAER Industries filed an opposition to TRAB as Chuangtao Company violated its trademark right and the two trademarks constituted similarity when used in same or similar goods.

TRAB held that the two trademarks constitute similar trademarks as the products certified to be used on similar products, while the similarity would not be constituted when they were used on other products. Besides, OLAER Industries failed to prove the 奥莱 trademark has violated its trademark right. So TRAB revoked the registration of 奥莱 on hydraulic pressure machines and hydraulic

tool and maintained the registration on other products in the rule.

The OLAER Industries then appealed to Beijing No.1 Intermediate People's Court.

The Court held that the hydraulic pressure machines, hydraulic tool and machine axis products 奥莱 certified to be used on are similar to 奥莱尔 in function, production department and consumers. The registration of 奥莱 on such products has constituted similarity. So the Court revoked the decision made by TRAB and ordered TRAB to make a new rule.

TRAB then appealed to Beijing Higher People's Court.

After examination, the Court held that the similarity has been constituted as 奥莱尔 contained the complete character of 奥莱. The products which two trademarks certified to be used on are similar products. So affirmed. <http://english.sipo.gov.cn/news/ChinaIPNews/2017/201703/P020170301314968610567.pdf>

### **Understanding Design Patent Practice through the Jaguar Land Rover Case**

The bitter battle between Jaguar Land Rover and Chinese automaker Jiangling Motor Holding resulted in the invalidation of two Chinese design patents, one owned by Jiangling and the other by Jaguar. The case provides us with a vivid illustration of design patent practice in China, which we will explain in the supplement article.