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**TM's E-filing in Full Swing with Relevant Regulations in Effect**

On September 1, Regulations on Electronic Application of Trademarks formulated by China National Intellectual Property Administration (CNIPA) went into effect, ushering in an era of E-filing of trademarks.

"To apply for a trademark registration electronically is no doubt an important symbol and progress of trademark system modernization in China. It is of much significance to execute the measure considering the rapid development of information network technology and the surging number of trademark registrations," said Feng Xiaoqing, a professor and director of Institute of Intellectual Property Law of China University of Political Science and Law, adding that the enactment of the Regulations will elevate trademark application efficiency and enable market players including enterprises to file and obtain trademark registrations in a timely fashion.

Under the Regulations, e-filing means that the trademark application documents are filed to CNIPA in the required electronic form through a trademark online service system. Accordingly, the Regulations make specific and definite rules on some issues including user registration, application procedures and requirements, principal-agent service in electronic form, requirements and submission dates of trademark application documents or materials and coordination with the relevant regulations of paper application documents.

<http://english.ipraction.gov.cn/article/News/201909/20190900227727.shtml>

**Supporting Regulations about Anti-Monopoly Law Came into Force in September**

Three supporting regulations about Anti-Monopoly Law, released by the State Administration for Market Regulation (SAMR) in June, took into force in September, including the Interim Regulations on Prohibiting the Monopoly Agreement, the Interim Regulations on Prohibiting the Abuse of Market Dominant Position and the Interim Regulations on Curbing the Abuse of Administrative Power for the Expelling and Limitation of Competition.

The supporting regulations clarify the law enforcement mechanism at the Central Government and provincial levels, i.e. the SAMR is responsible for handling the complex cases across different provinces, autonomous regions and municipalities directly under the Central Government or those cases with major influence and necessity for the direct investigation of SAMR itself, and the provincial market regulators is in charge of the anti-monopoly law enforcement within its own administration. The procedural regulations about complaint, case filing, investigation and solution are also identified and it is required that the decisions should be publicized in accordance with the law.

It is specifically regulated that the law enforcement institutions should treat all the business entities equally in the investigation over the monopoly acts. Also, the identification methods and procedure of law enforcement are specified. For the first three reporters of own offenses or providing important evidence about others' violation, the

finances can be reduced based on the sequence of filing an application so as to realize a feasible leniency system. The identification of dominant positions at the online or IP markets is also clearly taken into consideration.

<http://english.ipraction.gov.cn/article/News/201909/20190900227751.shtml>

### **Chinese Designs Step Closer to Protection under Hague System**

China ranked ninth in the number of international applications worldwide in 2018, growing 142 percent from a year earlier. However, among the top 20 applicants, China is the only one staying outside the Hague system.

The CNIPA began negotiations with the WIPO in May on China joining the Hague Agreement, which is a treaty that helps international registrations of industrial designs. Under the agreement, an industrial design will be protected by all contracting parties through a single application.

Perks of membership include avoiding different currencies to pay fees, submitting one international application in one language such as English, French or Spanish, and communication with the International Bureau of WIPO.

The Hague system allows an application to contain up to 100 different designs as long as they belong to the same category. The system is characterized by simplicity, economy, efficiency and flexibility.

<http://english.ipraction.gov.cn/article/News/201909/20190900228571.shtml>

### **Boost for Intellectual Property Financing**

Banks and insurers will be encouraged to increase support for the use of intellectual property in financing in an effort to support the development of innovative technology enterprises, according to a notice released on Friday.

Jointly issued by the China Banking and Insurance Regulatory Commission, the National Intellectual Property Administration and the National Copyright Administration, it said intellectual property was hard to evaluate, dispose of, or sell, which had restricted the growth of intellectual property financing.

A series of measures will be taken to deal with those difficulties, the notice said, and commercial banks will be encouraged to train professional personnel and gradually establish a sound internal intellectual property evaluation system.

Statistics from the China Banking and Insurance Regulatory Commission showed there were 6,668 borrowers with loans based on intellectual property by the end of the first quarter, an increase of 1,200 compared with the same period last year.

<http://english.ipraction.gov.cn/article/News/201909/20190900228903.shtml>

### **Beijing IP Court Closed over 10,000 Cases in H1 2019**

In the first half of this year, Beijing IP Court closed 10,584 cases, up 66.3% year on year.

In order to improve efficiency, Beijing IP Court set up a special team for delivery works. It completes 38,395 times of delivery in the first half year, saving time for judges to focus on the trial. A fast-trial group is established to focus on the opposition cases of second trial under jurisdiction. 2,293 appellate cases of such kind were closed and the trial time is reduced to 14 days from 27 days. Beijing IP Court also launches the fast trial mechanism for some trademark-related administrative cases and continuously optimizes it. For the same period, 4201 cases on fast trial were closed, up 140% from the same period of last year. The rate of cases closed to those handled stood at 117.14%, the new high in history.

<http://english.ipraction.gov.cn/article/News/201909/20190900228703.shtml>

## SUPPLEMENT ISSUE

### **LEVI's Prevails in Double Arcs Trademark Infringement Case**

Guangzhou IP Court recently made a final judgment on a trademark infringement case between LEVI STRAUSS & CO., and Guangzhou Lifeng Textile Company, ruling that Lifeng Company's action of using arcuate design on two pockets at the back of jeans constitutes infringement, and ordering Lifeng company to cease distributing infringing goods and indemnify 30,000 yuan in damages and reasonable costs to LEVI STRAUSS.

LEVI STRAUSS started to use its Arcuate Design on the back pockets since it distributed its very first pair of jeans in 1873. Then the company registered a trademark for this design in 1943. As of now, the company has registered the same trademark in more than 100 countries and regions, and the trademark's Chinese presence, No. 2023725 "公式" trademark (hereinafter referred to as arcuate design) was approved in China on May 14, 2005, certified to be used on Class 25 goods including clothes and jeans.

In 2017, LEVI STRAUSS found arcuate design on two pockets at the back of jeans sold by an online shop named Gulanger Clothing Flagship on the TMALL. There is a horizontal separation line within the diamond-shaped box at the crossing of double arcs, which is almost the same as its Arcuate Design. LEVI STRAUSS then sued Gulanger at Guangzhou Huangpu People's Court on the ground of trademark infringement, and requested the court to order Gulanger to cease infringement, destroy all counterfeiting goods and indemnify 50,000 yuan in damages.

Lifeng argued that it had not intended to infringe the registered trademark of LEVI STRAUSS as it did not know that the arcuate design has been registered.

By comparison, the court held that the line-shaped figure used on the back pockets of goods in question is almost visually the same with LEVI STRAUSS's Arcuate Design, and issued in a manner consistent with LEVI STRAUSS. Consequently, Lifeng shall be liable for infringement. The court then ordered Lifeng to cease infringement and indemnify 30,000 yuan in damages.

Disgruntled with the first-instance judgment, Lifeng then went on appeal to Guangzhou IP Court, requesting the court to reject all claims of LEVI STRAUSS.

After hearing, Guangzhou IP Court held that after many years' of use and promotion, the Arcuate Design of LEVI STRAUSS has earned high reputation and recognition from consumers, and an ordinary consumer has the ability to associate Lifeng's double arcs at the back pockets of jeans with LEVI'S jeans. The trial court was correct in determining the two double arc patterns are the same through proper evaluation of facts and appropriate application of law. In this connection, the IP court denied the appeal and upheld the trial court decision.

<http://english.cnipa.gov.cn/docs/2019-09/20190911092312116140.pdf>

### **Bayer Awarded Injunction, RMB1.31 Million in Syringe Patent Case**

Bayer Health Care Company sued Shenzhen Ante High-Tech Industrial Company, Beijing Bangshengdel Trading Company for invention patent infringement. Recently, Beijing Higher People's Court made a final judgment on the case, ordering Ante to immediately stop manufacturing, offering to sell, selling the alleged infringing products and to destroy the drawings and molds for the manufacture of the alleged infringing products and indemnify 1.31 million yuan in damages and reasonable costs and ordering Bangshengdel to immediately cease selling the alleged infringing products.

Bayer is the patent right holder of "front-loading medical injectors and syringes, syringe interfaces, syringe adapters and syringe plungers for their use" (Patent Number: ZL00817905.0). The company found the products called "one-time use of high-pressure contrast syringes and accessories" (alleged infringing products) produced by Ante and sold by Bangshengdel fell within the scope of the claimed patent right at issue and filed a lawsuit with Beijing IP Court, requesting the Court to order Bangshengdel to stop selling the alleged infringing products; Ante to cease manufacturing and offering to sell and selling alleged infringing products, to destroy the drawings and molds used in the making of the alleged infringing products and all the infringing products and to indemnify 1.63 million yuan in damages.

After hearing, the Court found that the alleged infringing products fell within the protection scope of the patent claims 1-9 and 12-14. In addition, the acts of Ante in manufacturing, offering to sell and selling the alleged infringing products and the acts of Bangshengdel in selling the alleged infringing products infringed on Bayer's invention patent. In this connection, Beijing IP Court made the above-mentioned first-instance judgment favoring Bayer.

Both Bayer and Bangshengdel accepted the first-instance judgment. The disgruntled Ante refused to call it a day and appealed to Beijing High People's Court, claiming that alleged infringing products lack relevant technical features of the patent claims 1-3 and 5, and the protection scope of claim 1 is not clear, so those products don't fall within the protection scope of the patent right involved. Beijing High rejected the appeal and upheld the trial Court's decision then.

<http://english.cnipa.gov.cn/docs/2019-09/20190918091558791496.pdf>