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CNIPA Fully Implements Electronic Patent Certificates

On January 29, 2023, the China National Intellectual Property Administration (CNIPA) issued Announcement No. 515, informing that from February 7, 2023 (inclusive), the CNIPA will fully implement electronic patent certificates.

For patent applications filed in electronic form and granted, the parties concerned may download electronic patent certificates through the patent affairs handling system; for patent applications filed in paper form and granted, the parties concerned may download electronic patent certificates in the manner as notified in the *Notification to Obtain Electronic Patent Certificate*.

Details of the Announcement may be found at the following link:

https://www.cnipa.gov.cn/art/2023/1/29/art_74_181610.html

CICT Mobile Subsidiaries Demand 120 Million Yuan from Samsung China for Patent Infringement

On February 6, CICT Mobile announced that its wholly-owned subsidiaries DT Mobile and

Shanghai DT Mobile have filed a lawsuit against Samsung China with the Fuzhou Intermediate People's Court for infringement of its invention patents. The company said it recently received a notice from the court that the case has been formally filed. According to the announcement, the patent infringement lawsuit involves six cases. The plaintiff requested that Samsung China be ordered to immediately stop the infringement, and compensate for its economic losses of 120 million yuan.

<http://www.chinaipmagazine.com/en/news-show.asp?id=12719>

CNIPA Calls for Input on Draft Amendment to the Trademark Law

On January 13, CNIPA issued the Draft Amendment to the Trademark Law of the People's Republic of China (Draft for Comment). The Draft expands the Trademark Law to 10 chapters and 101 articles. Among them, 23 new articles were added, 6 new articles were split from existing articles, 45 articles were substantially revised, and 27 existing articles were maintained. Many of the amendments focus on reducing malicious registrations of trademarks and also

introduces a system of forced transfer of maliciously squatted trademarks.

<http://www.chinaipmagazine.com/en/news-show.asp?id=12715>

Audi Wins Lawsuit against Chinese EV Car Maker Nio over Naming of ES6 and ES8

Recently, Audi has won a trademark lawsuit against Nio in Germany. According to media reports, the District Court of Munich ruled that the NIO ES6 and ES8 names infringed Audi's trademark rights because they could be mistaken for electric models of the Audi brand S6 and S8. Nio is banned from using the ES6 and ES8 model names to sell its products in Germany. Nio has said it is looking into appealing the verdict. On June 16, 2022, Audi filed a lawsuit against Nio in the District Court of Munich, accusing that Nio's decision to name its two models ES6 and ES8 violated the trademark rights of its S6 and S8 models.

<http://www.chinaipmagazine.com/en/news-show.asp?id=12716>

Nokia Wins Entitlement to UK FRAND Trial against OPPO

Nokia has won entitlement to UK FRAND trial against OPPO as High Court of Justice joined Mannheim and the Hague courts in deeming EP2981103 standard-essential, according to the Foss Patents. Nokia announced on Tuesday that the London-based High Court of Justice (formerly England & Wales High Court) has found for Nokia in a patent enforcement action over 4G/5G standard-essential patent EP2981103 on an "allocation of preamble sequences". As a result, the High Court will hold a FRAND hearing.

<http://www.chinaipmagazine.com/en/news-show.asp?id=12714>

Government Takes New Measures to Support Time-honored Brands

China has rolled out new measures to promote the country's time-honored brands. Time-honored brands, also known as laozihao in Chinese, are titles granted by the government to domestic brands with a long history. They are seen as the pacesetters of Chinese industrial and commercial development.

China's Ministry of Commerce and four other government departments have released new rules to facilitate the innovative development of the country's time-honored brands and boost national consumption.

New efforts highlight the sustainable development of brand holders.

LI GANG Deputy director general, Circulation Development Dept. Ministry of Commerce "We have updated the definition for time-honored brands. It now refers to those with at least 50-year history, instead of those established before 1956. Therefore, we can foresee that apart more old brands, more new brands popular to the public will become China's time-honored brands and create continuous commercial vitality.

"We have also set up a dynamic management mechanism with entry and exit criteria. So brand holders can no longer simply rest on their past achievements without moving on."

The government is also calling for joint efforts to revive and protect time-honored brands.

Namely, it will further tap into the historical and cultural value of time-honored brands, while stepping up protection of cultural heritages owned by these brands.

Regulations on brand logos and plaques have also been specified.

WANG XIAOHU Deputy director general, Intellectual Property Protection Dept. CNIPA "We will strengthen cooperation and coordination in protecting well-known

trademarks when it comes to examination, authorization, enterprise registration, administrative law enforcement, and foreign investment mergers and acquisitions.

"In recent years, China's enterprises have encountered IP problems such as lawsuits overseas, trademarks squatting as they passionately went abroad. The CNIPA and the China Council for the Promotion of International Trade have jointly set up the service center for overseas IP disputes and 22 local branches to provide professional guidance."

Every three years, the Ministry of Commerce and other relevant departments will identify a new batch of time-honored brands. There are currently over 1,100 existing China time-honored brands and over 3,000 regional ones. They together generate a revenue of nearly 300 billion U.S. dollars annually.

Chinese authorities say a new set of measures aim to encourage more market players to pursue high-quality development and generate a strong domestic market to better meet people's growing needs.

https://english-ipraction.samr.gov.cn/NEWS/art/2023/art_1dfe38e08f794cd18ae430501cff4207.html

China-Japan-Korea International Symposium on Intellectual Property Held in 2022

The Chinese Intellectual Property Society (CIPS), Intellectual Property Association of Japan (IPAJ) and Korea Intellectual Property Society (KIPS) jointly held the 2022 international symposium on intellectual property via both online and offline on December 28, 2022. CNIPA Deputy Commissioner Lu Pengqi, CIPS President Tian Lipu and heads of IPAJ and KIPS attended the opening ceremony and delivered keynote speeches.

Lu said as one of the major platforms for IP cooperation of China, Japan and the Republic of Korea, the international symposium has reaped fruits for 10 times. This edition featured a very pragmatic theme - "Mission and responsibility of IP in digital economy age". It is hoped that the IP communities of the three countries will seize the trends of emerging technology and advocate the construction of a more convenient, efficient, safe and reliable IP protection system, which will benefit the economic and technological development of East Asia. The partners are encouraged to take advantage of the platform to share wisdom and comments and inject new dynamics, power and contributions to the IP cooperation of the three countries and the economic and technological development of Asia.

Tian said IP is a new engine for powering the quality development of the digital economy and even a key element for inspiring continuous innovation of the digital economy. He said he was looking forward to working with Japanese and Korean partners to build an open, fair and non-discriminatory environment for the digital economy development.

Digital economy has become a new type of economic mode after agricultural reform and the industrial age. Driven by the digital economy, new technology and new platforms are booming, giving rise to tremendous changes in avenues for knowledge-based products, bringing new subjects requiring IP protection into life and, of course, introducing fresh challenges for the current IP system. With that in mind, CIPS organized four themed panels for the international symposium. Around 15 IP experts from the three countries made presentations on the symposium theme and topics including rules for IP protection of data, IP controversy concerning metaverse, IP issues related to healthcare and patent licensing linkage system and IP's role in the post-pandemic economic recovery, interacted with 12 guests

and shared the experience and practices of their respective countries.

http://english.cnipa.gov.cn/art/2023/1/17/art_1340_181449.html

China Leads the World with 4.21 Million Valid Registered Patents in 2022

The total number of invention patents filed in China in 2022 reached 4.21 million, of which 3.28 million were held by inventors from mainland China, officials from the CNIPA said at a press conference recently. According to Hu Wenhui, deputy director of the CNIPA, China is the first country to pass the threshold of 3 million. The number of high-value patents increased by 24.2 per cent year on year to 1.32 million, or 9.4 patents per 10,000 people, up from 7.5 per 10,000 in 2021, reflecting the improvement in the quality of China's intellectual property invention, according to the CNIPA.

<http://www.chinaipmagazine.com/en/news-show.asp?id=12717>

CICT Mobile Subsidiaries Demand 120 Million Yuan from Samsung China for Patent Infringement

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<http://www.chinaipmagazine.com/en/news-show.asp?id=12719>

Court Cracks Whip on Internet Service Providers over Sale of Counterfeit Products

Internet operators who are aware of retailers selling counterfeit products online and yet continue to provide them with services will be punished, a judge at the Beijing Intellectual Property Court said.

"If internet platforms don't take measures to stop such infringements, including removing, blocking or disconnecting the web links of such online retailers after finding evidence or receiving reports concerning fake products, they'll be deemed to have failed to fulfill their obligations and should also be held civilly liable," said Zhou Liting, the judge of the court's No 2 Tribunal, said.

https://english-ipraction.samr.gov.cn/NEWS/art/2023/art_046ec353c51a4c5ab1648f78420c3dd9.html

SUPPLEMENTARY ISSUE

SPC: Timely Shifting the Burden of Proof to Protect the Rights and Interests of the Party Concerned

In January 2023, the Supreme People's Court (SPC) issued an appeal case in which the SPC, in the absence of industry standards, shifted the burden of proof in a timely manner giving consideration to the laws of corn breeding, and used the presumption of facts to determine the paternity relationship between hybrid corn varieties and parent varieties, and on this basis, the SPC amended the judgment to rule that infringement was established and ordered the infringer to compensate the breeder for economic losses and reasonable expenses

The appellant in this case was the right holder of new corn varieties "T37" and "WH818", and "Caitiannuo No. 6" is a corn variety selectively bred by using "T37" and "WH818" as its father plant and mother plant respectively. The appellee was a producer and seller of seeds of "Caitiannuo 866". The appellant claimed that "Caitiannuo 866" was produced using "T37" and "WH818" as parents and the appellee's conduct constituted infringement, and thus requested that the appellee be ordered to stop the production and sale of the sued infringing corn seeds, and compensate the appellee for economic losses of CNY 200,000 and reasonable expenses of CNY 20,000. The appellee argued that the appellant did not provide propagation materials as evidence to trace the parents of the sued infringing "Caitiannuo 866" seeds, and further failed to prove that the "Caitiannuo 866" seeds could only be obtained through "T37" and "WH818". During the first instance, the court dismissed all the claims of the plaintiff (the appellant in this case) on the grounds that the evidence submitted was insufficient.

During the second instance, the SPC held that,

Generally, in actual corn breeding and production, the probability of using different parents to obtain the same or very similar varieties through cross-breeding is very low. When an appellant can prove that a sued infringing hybrid variety and another hybrid variety selectively bred by using granted varieties as its father plant and mother plant have the same or very similar genotypes, it can be preliminarily presumed that there is a high possibility that the granted varieties have been used as parents of the sued infringing hybrid variety. Under such circumstance, the accused infringer (appellee) should instead provide evidence to prove that the granted varieties claimed by the variety right holder actually were not used as parents of the sued infringing hybrid variety, and where the accused infringer cannot provide evidence or the evidence provided is insufficient to overturn the above preliminary presumption, it can be determined that the granted varieties have been used as parents of the sued infringing hybrid variety. In this case, upon mutual agreement by both parties, the seeds of "Caitiannuo 866" and "Caitiannuo No. 6" were sent to Beijing Corn Seed Testing Center for testing, and the results show that among 40 comparison sites, the number of differential sites between "Caitiannuo 866" and "Caitiannuo No. 6" is 0, i.e., they belong to varieties with the same or very similar genotypes, and thus it can be preliminarily presumed that there is a high possibility that the sued infringing corn seeds of "Caitiannuo 866" have the same father plant and mother plant as the authorized variety "Caitiannuo No. 6". In such a situation, the appellee should adduce contrary evidence proving that the sued infringing corn seeds were produced and bred by using other parents. Since the appellee failed to adduce contrary evidence during the second instance, it should bear the adverse consequences. Although the act of selling the sued infringing seeds (propagating materials of another variety) is not expressly stipulated as an infringement in the Seed Law, if such another variety is directly crossbred by using two granted varieties owned by the same right holder as parent plants, then the act of selling the propagating materials of such another variety is a natural continuation of production by reusing

the granted varieties, which would inevitably lead to further aggravation of the damages caused by the infringing production.

Therefore, the second-instance judgment held that, prohibiting the infringer who produced such another variety from selling propagating materials thereof conforms to the legal intent of stopping the producer's infringement and preventing the losses caused by the infringing act from aggravating. Therefore, the second-instance judgment ruled that the relevant determination made by the first-instance court was erroneous and the first-instance judgment was amended according to law. Meantime, the SPC pointed out that in this case, there was no evidence proving that the sued infringing corn seeds had gone through the examination and approval of major crop varieties, so the appellee's infringement belonged to the promotion of seeds of major crops without examination or approval, and it was suspected of violating the provisions of Articles 15 and 23 of the Seed Law, and the clues of the illegal acts were transferred to the administrative department for handling in accordance with the law.

The judgment of this case is of typical significance in many aspects. First, in the absence of industry standards, the second-instance judgment shifted the burden of proof in a timely manner giving consideration to the laws of corn breeding, and used the presumption of facts to determine the paternity relationship between hybrid corn varieties and their parents, which provides strong protection for variety right holders. Second, with respect to the act of reusing the propagating materials of a granted variety to produce propagating materials of another variety for commercial purposes, ordering the infringing producer to stop the sale of propagating material of such another variety provides favorable protection for the variety right holder. Third, with respect to the promotion of corn seeds without examination or approval, transferring the clues of such act to the administrative department for handling also reflects a joint protection pattern formed by the close connection between judicial protection and administrative law enforcement.

See the following link for the details of the relevant case:

<https://ipc.court.gov.cn/zh-cn/news/view-2149.html>

In February 2023, AFD China and China Changjiang River Charity Foundation Joined Hands Again to "Let the Swan Fly"

AFD China has been committed to helping children in need and improving their learning and living conditions. "Let the Swans Fly" is a charity project that provides financial support for Yanjing Little Swan Public Welfare School. By providing funds, we help the School purchase sufficient teaching aids, cultural and sports equipment, learning supplies, daily necessities, etc., to ensure that the children have sufficient educational resources.

2022 is also a year seriously impacted by the epidemic, so how was the situation in the School? In 2022, the School suspended classes for more than a month in the spring semester and fall semester respectively, but with joint efforts of the teachers and students, the School opened online courses and added many extracurricular courses, so the teaching activities of the School were carried out smoothly. The School also organized students to participate in national competitions, such as the National Coding Test For Adolescents sponsored by the China Software Industry Association, which is one of the first batch of AAA-level industry organizations approved by the Ministry of Civil Affairs, and the National Primary and Secondary School Information Technology Innovation and Practice Competition, etc., and the children achieved good results in the competitions.

The School set up a special class for poverty-stricken students in 2021, and in the past year, these students changed a lot. They not only greatly improved their study skills, but also built some good habits and developed some hobbies. At present, there are 56 students in this special class. After spending more than one year with these students, the teachers find that this model works. When the students came to a new environment, the teachers not only taught them knowledge, but also treated the students like their own children and cared about them, which allowed the students to become confident and even get higher test scores than average.

In February 2023, AFD China provided funds again for the school to purchase textbooks, learning supplies, teaching aids, cultural and sports equipment, daily necessities, etc. and to subsidize the round trip fares of volunteer teachers in summer and winter vacations. It is hoped that these materials may enable the children there to study without worries.

It is easy to do one good deed, but it is difficult to do good deeds for a lifetime. The teachers who devote themselves to public welfare education are a group of people who fill every day of their lives with kindness and love. They use their knowledge and ability to educate and help many poor children, so that these children may have a future with more possibilities and will dare to have dreams and dare to change their fate. With sincerity and devotion, the teachers teach these children what the value of life is and how to find and realize their values in this world. These will become valuable assets for these children throughout their lives. We are willing to support such teachers and accompany them on the path of public welfare education. We are also willing to help these children and let them know that they are not ignored or forgotten. In this way, it is hoped that when these children grow up, they can pass on the love they feel to others in need.

Charity is never an empty word and also should not become a kind of moral abduction. Charity should originate from one's own heart and calls for action. No matter whether donating money to those in need or helping an elderly person cross the street, such kind of behaviors are all worthy of respect and should be applauded. We are also willing to help those in distress in every way we can and kindly hope that more and more people will join us on the way forward.

In February 2023, AFD China continued to fund rehabilitation of children with cerebral palsy through the Phoenix Public Welfare Program

In 2022, recurrent outbreaks of COVID-19 occurred in many countries around the world. In the face of the epidemic, there are things that we are unable to change and can only adapt to, but we can also actively do some things and strive for a life with less regrets. For example, we may maintain love in our life, care about others, and keep a clam and peaceful mind on the implementation and cancellation of epidemic control measures.

Since 2016, we have been helping children with cerebral palsy to undergo rehabilitation training through Chenguang Rehabilitation Center for 7 consecutive years. With our support, two children have recovered their physical functions and fit into normal social life. In 2022, we began to sponsor Jing Yong, an orphan from Fujian. So, how about his life and training in the past year? Let's find out together!

After 8 months of rehabilitation training, Jing Yong made a lot of progress. Now he can stand independently, and by holding onto the handrails, he can walk on a treadmill non-stop for two hours; he can go from half-kneeling to standing get-up for 50 times continuously and do push-up for 80 times continuously; he is also able to walk 2 steps independently. He can put on and take off some clothes by himself, eat by himself and support himself to go up the stairs.

As implied by his name, Jing Yong is brave, optimistic, and actively fights against the tribulations in his life. Uncompromising, not giving in, this little boy shows great vigor and energy.

In order to help Jingyong continue to rehabilitate and fit into normal social life as soon as possible, in 2023, our firm organized a donation activity, and a total of 88 caring colleagues participated in the donation. All the funds raised will be used for Jingyong's rehabilitation training, nursing care, accommodation cost and other expenses.

Philanthropy or charity corresponds to “慈善” in Chinese. The Chinese character “慈” means “love from heart”, while “善” means “nice and kind act or attitude”. When put together, the two characters “慈善” have a lot of good meanings. With the idea of thinking about the interests of others, and with love and kindness, we can make everyone feel the warmth of the society.

Charity is a social undertaking in which people voluntarily give love and assistance and engage in helping the weak and the poor. In this definition, the word "voluntarily" is particularly important and valuable, because "voluntarily" means that charity is not an obligation, but an action driven by our inner will. Therefore, it is normal not to do it, and no one can force you to do it; if you choose to do it, it is your virtue and you may find inner joy when helping others. It is one's own choice as to whether or how to do charity, and everyone can choose to do it in a way they deem more appropriate, no need to mind the views or judgments of others.

The most important thing to consider in charity is the needs of others and what kind of help can really help them out of the predicament. Sometimes directly giving them money cannot solve the problem, and sometimes it can even become an obstacle, giving the person being helped a false dependency. Money is just a tool, and some people may turn money into resources, abilities, and skills, so that the person being helped can truly acquire health, survival skills, and more choices. These people are also worthy of respect and gratitude. It is because of them that our donation is put into actual use; it is because of them that love can be passed on smoothly. We would like to express our special gratitude to all the teachers and other staff of the rehabilitation center who have been working hard for many years for the rehabilitation of the children with cerebral palsy. They are the real "family" of these children.

Taking this opportunity, we would also like to thank our caring colleagues who have been supporting the Phoenix Public Welfare Project. Because of their support, these children get the opportunity to rehabilitate and get the courage to dream about the future. We believe that when they grow up, they will do their best to help more people. Charity is like a river, we standing on its one side and the children standing on the other side; the teachers are like a bridge on the river, connecting us with these children. We, the teachers and the children joining hands together, this is the most beautiful scenery of love.

Charity does not rely on the power of a certain person or a handful of people but on collective efforts. We hope that more and more friends will join hands with us to build a most beautiful bond between people.

Protection of Trade Secrets Strengthened

China's judicial system has made greater efforts in recent years to protect trade secrets, improve the quality of hearings and build a sound business environment for domestic and foreign enterprises, a senior Beijing court official said.

With global trade's rapid growth, trade secrets have become a more important intangible asset for companies and played a bigger role in market competition, said Song Yushui, vice-president of the Beijing IP Court.

"It's absolutely necessary to strengthen protection in this regard," she said in an interview with China Daily.

While more countries have become keen on investing in China in recent years because of its dynamic market and endeavors to promote intellectual property-related matters, some Western nations have accused the country of insufficient protection of IP rights, including trade secrets.

However, China has made protection of trade secrets a priority in many areas.

In November 2020, Xi Jinping, general secretary of the Communist Party of China Central Committee, while participating in a group study session of the Political Bureau of the CPC Central Committee, stressed the importance of IP protection.

Laws on IP rights protection should be improved, and cases of infringement must be punished in accordance with the law, he said.

The need to protect trade secrets has been added to China's Civil Code, the Anti-Unfair Competition Law and the Criminal Law as well as a number of judicial interpretations and local regulations. "This demonstrates that China's moves to establish the legal protection of trade secrets have been constantly strengthened," Song said.

Data from the Beijing IP Court, which was established in November 2014, showed it had heard 182 cases regarding trade secrets by the end of last year, of which 136 have been concluded. Foreign litigants were from countries including the United States, Japan, the United Kingdom, India and Germany.

"We've always given equal protection to litigants, no matter where they're from," Song said.

A large number of disputes have emerged in the technology, internet, energy and biomedical sectors. A total of 93 percent of the cases involved workers leaving a company for a rival, she said.

"Quite a few plaintiffs in the lawsuits failed to win support from the court, as they had difficulty in proving that the contents leaked by their former or current employees were valuable and confidential," she explained.

To solve this problem, the court issued a guideline in October 2021, specifying what information can be identified as trade secrets and listing a few examples of acts that can be deemed as infringements.

Wang Zhengzhi, partner at Globe-Law Law Firm, said that the guideline "gives a clearer picture of the scope of trade secrets and clarifies infringement behavior, which had been vague in legal practice."

He also gave a thumbs-up to the English-language version of the guideline, saying it is a helpful guide for overseas litigants unable to read Chinese.

"The guideline helps IP lawyers understand more about trade secrets so they can offer better legal services, and it also specifically tells plaintiffs what evidence needs to be prepared if they believe their trade secrets have been infringed upon," Wang said.

In 2021, the Chinese branch of a German company initiated a lawsuit against one of its employees after learning that the employee, who was preparing to leave the company, had copied a large number of confidential documents and sent them to her private e-mail account.

"The company contacted the former employee several times, trying to persuade her to delete the documents, but failed," said Yang Hua, the company's lawyer and managing partner at Grandall Law Firm (Beijing). "Given that leaking the documents could put the company at great risk, the company turned to a court."

Under the guideline, Yang and her team prepared more than 500 pages of evidence for litigation that detailed the confidentiality of the documents, including how the company made clear the duty of its employees to keep business secrets and measures it has taken to protect them.

The company ultimately won the lawsuit.

Besides the guideline, the court has also established a team that specializes in handling disputes about trade secrets to improve the quality and professionalism of case hearings. The team has undertaken exchanges with other countries to keep them up to date on its work.

Wang, from Globe-Law Law Firm urged the IP court to explain to legislators the difficulties in general legal practice to help formulate a law relating to trade secrets in a timely manner.

He also urged more communication with government departments to help enhance officials' awareness of protecting trade secrets.

https://english-ipraction.samr.gov.cn/NEWS/art/2023/art_fc4a2ec0c4ca4b8d9800e8bc8419f0ff.html