

中国知財ニュース IP NEWS in CHINA

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Proposed Legislation

[1] Symposium on soliciting opinions on Measures for Payment of Remunerations for Use of Written Works held in Beijing

[National Copyright Administration]

...On October 24, the National Copyright Administration (NCA) held a symposium in Beijing on soliciting opinions on the Measures for Payment of Remunerations for Use of Written Works. Deputy Director of NCA Yan Xiaohong stressed at the meeting that revision of the Measures should adhere to fair and open principles to deal with interest balance relations between right holders and users, disseminators as well as social public pursuant to relevant laws and regulations on copyright. The Measures adopt guidance-based, instruction-supplemented remuneration payment standards; insist on the principle of contract priority. Authors and users may agree on remuneration standards in contracts. The Measures shall apply in the absence of contracts or clear stipulations in the contracts; remuneration for reprint of a newspaper/periodical which belongs to mandatory remuneration shall be paid to author at a statutory rate. Yan also said NCA would soon report to relevant departments the attendees' opinions on enhancing individual income tax threshold for remunerations.

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[2] SIPO solicited comments on the Draft Revision to the Patent Examination Guide (Draft for Comments)

[Legislative Affairs Office of the State Council]

...On October 22, the State Intellectual Property Office (SIPO) issued the notice to solicit comments on the Draft Revision to the Patent Examination Guide (Draft for Comments), with feedback deadline of November 22, 2013. The main revisions included: revising the provisions for the circumstances under which the design patent is not granted; revising the requirements on product graphics, adding the provisions for design drawings or photographs; adding the provisions for brief description; and adding the factors for judging whether there are obvious difference between the design and the existing design.

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Courts and Cases

[1] Beijing Higher People's Court issued the Guideline for the Determination of Patent Infringement

[State Intellectual Property Office]

...Recently, the Beijing Higher People's Court formulated and issued the Guideline for the Determination of Patent Infringement, which set forth comprehensive and feasible provisions on the determination of the scope of patent right protection, determination of infringement, and defense for the patent infringement.

The Guideline made improvement as follows: 1. detailed the determination of identical characteristics; 2. provided in a comprehensive and complete way for the determination rules of infringement of functional characteristics; 3. regulated the interpretation of right claim; 4. specifying the meaning of the "overall observation and comprehensive judgment"; 5. detailed each of the infringement acts; 6. incorporated the "indirect infringement" into the "co-infringement" concept; and 7. fully provided for the infringement defense, etc.

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