

## 中国知財ニュース IP NEWS in CHINA

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### Adopted Legislation [3]

- [1] Detailed rules for news publication related administrative penalties to come into force in June
- [2] SIPO launches special campaign on e-commerce patent law enforcement and rights protection
- [3] SAIC issues the Trademark Review and Adjudication Rules

[Top](#)

### Adopted Legislation

#### [1] Detailed rules for news publication related administrative penalties to come into force in June

[Legislative Affairs Office of the State Council ]

...State Administration of Press, Publication, Radio, Film and Television (SAPPRFT) released on May 13 the Detailed Implementing Rules on News Publication (Copyright) Administrative Law Enforcement Departments' Disclosing Information of Administrative Penalty Cases Involving Production and Sale of Counterfeiting and Shoddy Products and Intellectual Property Right Infringement (Trial) (hereinafter referred to as the "Detailed Rules"), which will come into force on June 1, 2014.

According to the Detailed Rules, news publication (copyright) administrative law enforcement departments should publish case information through the government affair website or through other public media such as bulletin boards, press conference, newspapers, periodicals, radio or TV. News publication (copyright) administrative law enforcement departments should disclose the full text of the administrative penalty decisions. It is also pointed out that case information involving trade secrets or personal privacy of natural persons such as domicile, portrait, telephone number, financial status can be disclosed subject to the approval of the relevant right owner. If the right owner agrees on the disclosure thereof or the news publication (copyright) administrative law enforcement department believes non-disclosure thereof will cause major impact on public interest, such information should be disclosed and the right owner should be notified of the reasons.

It is made clear that news publication (copyright) administrative law enforcement department should disclose relevant case information within 20 working days after the administrative penalty decision is made and report the same to superior authority. If case information involves national secret, state

politics, economic safety or will affect social stability, and the news publication (copyright) administrative law enforcement department decides not to disclose relevant information, reasons should be stated and be reported to superior authority for approval.

## **[2] SIPO launches special campaign on e-commerce patent law enforcement and rights protection**

[State Intellectual Property Office]

...On May 15, State Intellectual Property Office (SIPO) printed and distributed the Work Plan on Special Campaign of Patent Law Enforcement and Rights Protection of E-Commerce Field (Guo Zhi Ban Fa Guan Zi [2014] No. 25, hereinafter referred to as the "Plan"). The Plan consists of five parts, setting forth specific provisions on the work objectives, division of work, way of work, requirements, and schedule. According to the Plan, SIPO, local intellectual property offices and all rights protection centers should well define and divide their duties and responsibilities, and form a national network featuring explicit responsibilities, prominent pertinence and coordinated interconnection. The Plan prescribed the ways to deal with infringement acts under four circumstances: (1) deleting or screening immediately the links of infringing products if the infringement is obvious; (2) deleting or screening the links of infringing products as soon as possible in reference to the infringement judgment consulting opinions, if the patent infringements are of a relatively complex nature; (3) deleting or screening the links of infringing products in a timely manner based on the written reconciliation or handling decision, if the patent infringement cases are of a complex nature; and (4) investigating and punishing patent counterfeiting acts in e-commerce field. The Plan requires all local intellectual property offices and rights protection centers to effectively fulfill responsibilities, grant more support and incentives, enhance innovation and cooperation, strengthen supervision and inspection, and reinforce promotion and education. The special campaign will be launched from June to November.

## **[3] SAIC issues the Trademark Review and Adjudication Rules**

[State Administration for Industry and Commerce]

...On May 28, the amended Trademark Review and Adjudication Rules (Decree No. 65 of State Administration for Industry and Commerce, hereinafter referred to as the "Rules") was released, which will come into force on June 1, 2014.

The Rules defined the different types of trademark review and adjudication cases, differentiated the procedure of invalidation announcement review and review cancellation procedure, and clarified the adjudication scope of review cases on non-registration. The time limit for supplementing or correcting documents is shortened to 15 days, and the time limit for supplementing evidence is shortened to 30 days. Provisions were added that documents may be submitted or served through data messages. According to the provisions of the Implementing Regulations on the Trademark Law (Revision Draft) (Draft for Review), "open review and adjudication" is revised to "oral hearing".

The Rules also fine-tuned the relevant review and adjudication procedures: (1) clarified the cases that can be adjudicated by a single trademark review and adjudication officer; (2) clarified the way to correct non-substantive errors; (3) added relevant provisions on re-hearing of court rulings, making it clear that a collegial panel should be formed anew to conduct re-hearing, during which new evidence submitted by the parties can be admitted. In order to further regulate evidence admittance, the Rules prescribed that evidence not exchanged and cross-examined shall not be admitted.

According to the Rules, if the party to the case applies to the Trademark Review and Adjudication Board for review of a decision on rejecting a trademark registration application, or a ruling on certain

objections, prior to the implementation of new Trademark Law, and the Trademark Review and Adjudication Board hears the case after the implementation of the new Trademark Law, except for subject qualification of review cases on objection, other procedural issues and substantive issues should be governed by the new Trademark Law. With regard to cases on invalidation announcement, invalidation announcement review cases, or review cancellation cases that are accepted by the Trademark Review and Adjudication Board prior to the implementation of the new Trademark Law but are heard after the implementation thereof, the new Trademark Law should apply to the procedural issues while the old Trademark Law should apply to the subject qualification issue. With regard to trademark review cases accepted prior to the implementation of the new Trademark Law, the time limit for adjudication should be calculated from May 1, 2014.

[Top](#)

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