

## 中国知財ニュース IP NEWS in CHINA

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情報元：[中国法総合オンラインサービス〈Westlaw China〉](#)

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### Adopted Legislation

- [1] **Provisions on the Recognition and Protection of Well-Known Trademarks released**

[State Administration for Industry and Commerce ]

...On July 3, the Provisions on the Recognition and Protection of Well-Known Trademarks (Order No. 66 of State Administration for Industry and Commerce) was released, which consists of 21 articles and

will come into force in 30 days after the promulgation date. According to the Provisions, well-known trademarks shall be recognized on a case-by-case basis, and be subject to the principle of passive protection. Trademark cases involving well-known trademark protection will fall under the jurisdiction of relevant administration for industry and commerce at or above the level of cities (prefectures or autonomous prefectures). A party concerned who requests the administration for industry and commerce to investigate and punish trademark-related illegalities and claims rights pursuant to Article 13 of the Trademark Law may file a complaint with the administration for industry and commerce at or above the level of cities (prefectures or autonomous prefectures) at the place of occurrence of the said case, submit written request on well-known trademark protection, and shall provide supporting materials proving that the trademark in question is well-known.

The following materials may serve as evidence that a trademark is in compliance with Paragraph 1 of Article 14 of the Trademark Law: (1) Materials proving the extent of the relevant public's awareness of the trademark; (2) Materials proving the duration of the continuous use of the trademark, such as materials on the history and scope of the use and registration of the trademark. If the trademark is unregistered, materials proving that the trademark has been in continuous use for not less than five years shall be submitted. If the trademark is registered, materials proving that the trademark is registered at least three years ago or that the trademark has been in continuous use for not less than five years shall be submitted; (3) Materials proving the way, duration, degree and geographical scope of all publicity campaigns and promotional activities carried out for the trademark, such the advertising and promotional models and geographical scope, the type of promotional media, advertising volume, etc. in the past three years; (4) Records of past protection of the trademark as a well-known trademark in China or other countries or regions; and (5) Other materials proving that the trademark is well-known, such as the sales revenue, market share, profit and tax revenue, geographical scope of sales, etc. in the past three years of the main products bearing the trademark.

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## **Government Policies**

### **[1] The Note for Record-filing of Trademark Agencies issued**

[State Administration for Industry and Commerce ]

...On July 14, the State Administration for Industry and Commerce issued the Note for Record-filing of Trademark Agencies, including the subject of record-filing, the method of record-filing, the record-filing of trademark agencies, change of record-filing, merger, cancellation/settlement of trademark agencies, term, expense, and publishing of record-filing information. The Note shall take effect on the date of issuance. For normative documents issued by the SAIC and the Trademark Office on record-filing of trademark agencies prior to May 1, 2014, if there is any inconsistency between such normative documents and the Implementing Rules of the Trademark Law and this Note, the Implementing Rules of the Trademark Law and this Note shall prevail.

### **[2] The Notice of the State Administration for Industry and Commerce on Issues Related to Trademark Agency Record-filing issued**

[State Administration for Industry and Commerce ]

...On July 10, the Notice of the State Administration for Industry and Commerce on Issues Related to

Trademark Agency Record-filing (Gong Shang Biao Zi [2014] No. 134) was issued. As from May 1, 2014, the record-filing of trademark agencies and the change, merger, cancellation, settlement and other matters of trademark agencies which have been filed for record shall be handled by the agencies themselves with the trademark offices. The trademark agencies shall use the unified record-filing forms issued by the Trademark Office, submit record-filing information according to provisions and attach proof documents. The trademark agencies already filed for record shall continue to be valid. For normative documents issued by the SAIC and the Trademark Office on record-filing of trademark agencies prior to May 1, 2014, if there is any inconsistency between such normative documents and the Implementing Rules of the Trademark Law and this Notice, the Implementing Rules of the Trademark Law and this Notice shall prevail.

### **[3] Trademark Office issued trademark agency record filing forms**

[State Administration for Industry and Commerce ]

...On July 14, the Trademark Office issued trademark agency record filing forms, including the Trademark Agency Record-filing Form, the Trademark Agency Change Record-filing Form, the Trademark Agency Merger Record-filing Form and the Trademark Agency Cancellation Record-filing/Settlement Form.

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## **Proposed Legislation**

### **[1] The Decision of the Supreme People's Court to Revise the Certain Provisions of the Supreme People's Court on Issues Concerning Application of Law in Trying Cases Involving Patent Disputes (Draft for Comments) was issued to solicit public comments**

[Chinacourt.org]

...On July 16, the Decision of the Supreme People's Court to Revise the Certain Provisions of the Supreme People's Court on Issues Concerning Application of Law in Trying Cases Involving Patent Disputes (Draft for Comments) was issued to solicit public comments. The deadline for feedback was August 15, 2014. The revision this time involved nine articles. According to the draft, the place of infringement shall include: the place where a product alleged to be infringing a patent right for invention or utility model is manufactured, used, offered for sale, sold, imported, etc.; the place where a patented process is used or the place where a product directly obtained by the patented process is used, offered for sale, sold, imported, etc; the place where a product incorporating the patented exterior design is manufactured, offered for sale, sold, imported, etc.; the place where another's patent is passed off; and the place where the consequence of the above-mentioned acts of infringement occur.

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## Statistics

### [1] **The Annual Report on China Online Copyright in 2013 released**

[National Energy Administration ]

...On July 16, the Telecommunication Institute of the Ministry of Industry and Information Technology released the Annual Report on China Online Copyright in 2013, which pointed out that, China made remarkable achievements in the rule of law, administrative regulation and law enforcement, judicial protection, and industry self-regulation and other aspects of online copyright. The online copyright use, and protection of industry environment continued to improve and the overall situation turned better, but there were still some issues, such as the burst of copyright issues with the rapid development of network technology application, serious online piracy and criminal punishment of online infringement acts needed to be enhanced.

In term of judicial protection, the report noted that the online video copyright disputes accounted for more than half of all cases of infringing online information dissemination right. The websites of video sharing and providing video search have become the focus of litigation; mediation has become main method of settling online copyright civil and commercial cases of first instance. The cases closed by mediation and withdrawal accounted for 25.7%. Cases heard by the courts in Beijing, Shanghai and Guangdong, the most development area of mobile Internet industries, accounted for two third of total number of cases heard by local courts. Meanwhile, the criminal punishment is enhanced.

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## News

### [1] **This is the Best Chinese Book sued infringement**

[State Intellectual Property Office ]

...This is the Best Chinese Book was sued infringement. Nine articles thereof were alleged to infringe the exclusive translation publishing right of the Shanghai Translation Publishing House. The publisher, the planner and the seller have been sued by the Shanghai Translation Publishing House. Currently, Shanghai Pudong People's Court has accepted the case.

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