

中国知財ニュース IP NEWS in CHINA

本資料は、世界主要各国の法律情報や関連情報を網羅するウエストロー・ジャパン株式会社より、中華人民共和国の知財関連ニュースを英語で提供するものです。本文内容の無断での転載、再配信、掲示板への掲載等はお断りいたします。情報の内容につきましては正確を期すように努めておりますが、正確性を保証するものではありません。本情報の利用の結果発生するいかなる不利益に対しましてもその責任を負いませんので予めご了承ください。

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

Proposed Legislation [1]

- [1] Provisions of Supreme People's Court on Certain Issues Related to Trial of Administrative Cases Involving Trademark Licensing right (Draft for Public Comment) released

Courts and Cases [1]

- [1] Shanghai rules on a case involving illegal sale of pirated international standards

Adopted Legislation [1]

- [1] SPC releases the Provisions of Supreme People's Court on Case Jurisdiction of Intellectual Property Courts in Beijing, Shanghai, and Guangzhou

NEWS [1]

- [1] Beijing Intellectual Property Court to be established in early November

[Top](#)

Proposed Legislation

[1] **Provisions of Supreme People's Court on Certain Issues Related to Trial of Administrative Cases Involving Trademark Licensing right (Draft for Public Comment) released**

[Supreme People's Court]

...The Provisions of Supreme People's Court on Certain Issues Related to Trial of Administrative Cases Involving Trademark Licensing right (Draft for Public Comment) was released at the official website of Supreme People's Court and chinacourt.org to seek public comments and suggestions. The period for comment submission is one month, till November 15, 2014. The Draft for Comment consists of 29 articles. Administrative cases involving trademark licensing right refer to cases filed by counterparts or interested parties with the people's court due to dissatisfaction with specific administrative acts of Trademark Review and Adjudication Board under State Administration for Industry and Commerce such as trademark rejection review, trademark registration denial review, etc. The people's court should

determine the scope of review as to whether or not the specific administrative act involving trademark licensing right is lawful based on the litigation request and grounds of the parties concerned. If no allegation is made in litigation regarding the facts alleged by the parties concerned during the review stage, but the people's court discovers that the determination of Trademark Review and Adjudication Board is obviously erroneous, the people's court may, upon listening to the statements of parties concerned, make a judgment on the erroneous acts.

[Top](#)

Courts and Cases

[1] Shanghai rules on a case involving illegal sale of pirated international standards

[National Copyright Administration]

...Yangpu People's Court in Shanghai rendered the first-instance judgment regarding the case involving Wang and others in Shanghai selling pirated ISO standards through the Internet, and the defendant was sentenced to a three-year suspended prison sentence and was subject to a penalty of RMB 180,000.

As ascertained by the court, the defendant has, from October 2010, set up five websites and has classified ISO, IEC and other international standards and uploaded the same to the website for sale. The purchaser pays the defendant through the Paypal account registered or controlled by the defendant and received the documents of international standards from the defendant through mails. The court was of the opinion that the defendant has reproduced the copyrighted products without the consent of the copyright owner for seeking profit and the case was of a serious nature, which has constituted the crime of copyright infringement. The defendant did not say at court whether or not to file an appeal.

[Top](#)

Adopted Legislation

[1] SPC releases the Provisions of Supreme People's Court on Case Jurisdiction of Intellectual Property Courts in Beijing, Shanghai, and Guangzhou

[Chinacourt.org]

...Supreme People's Court (SPC) held a press release on November 3, 2014, to issue the Provisions of Supreme People's Court on Case Jurisdiction of Intellectual Property Courts in Beijing, Shanghai, and Guangzhou (Fa [2014] No. 267, hereinafter referred to as the "Provisions"), and brief the next-step work arrangements of SPC on strengthening IPR protection. The Provisions consists of 8 articles, mainly covering case jurisdiction and level of trial relationship of intellectual property courts, including first-instance jurisdiction, cross-regional jurisdiction, proprietary jurisdiction, second-instance jurisdiction, appeal jurisdiction, and handling of unclosed cases.

According to the Provisions, intellectual property courts should have jurisdiction over the following first-instance cases in their respective municipal area: civil and administrative cases involving patent, new varieties of plants, layout designs of integrated circuit, technical know-how, and computer software; administrative cases filed against administrative acts committed by State Council

departments and local people's government at or above the county level that involve copyright, trademark, unfair competition; and civil cases involving recognition of well-known trademarks. Beijing Intellectual Property Court will have jurisdiction over the following first-instance administrative cases: dissatisfaction with the rulings or decisions made by State Council departments concerning patent ,trademark, new varieties of plants, layout designs of integrated circuit and other intellectual property; dissatisfaction with the judgments made by State Council departments on compulsory licensing or royalties or remunerations for compulsory licensing made by the State council departments concerning patent , new varieties of plants, or layout designs of integrated circuit; dissatisfaction with the other administrative acts of State Council departments concerning IPR licensing right. It is made clear in the Provisions that appeal cases brought by parties concerned against the first-instance civil and administrative judgments and rulings made by grassroots court concerning copyright, trademark, technical contract, unfair competition, and other IPR should be tried by the municipal intellectual property court. The cases brought by parties concerned against first-instance judgments and rulings made by an intellectual property court and cases filed with the superior court for reconsideration should be tried by the intellectual property division of the municipal high people's court where the intellectual property court is located.

[Top](#)

News

[1] **Beijing Intellectual Property Court to be established in early November**

[National Copyright Administration]

...Beijing High People's Court held a press release on trial of cases related to patent and trademark licensing right, where it was announced that Beijing Intellectual Property Court will be established in early November. The selection of site for the court has been completed, and judge selection is under way. Technical investigators will also be hired, whose selection, appointment, position and function are being discussed and drafted by Supreme People's Court.

It is learnt that after Beijing Intellectual Property Court is established, the intermediate people's courts in Beijing will no longer accept IPR related cases. However, it will not affect the acceptance of IPR related civil cases involving small amount of subject matter by the grassroots people's courts. The appeal court for the Beijing Intellectual Property Court will be Beijing High People's Court.

[Top](#)

Westlaw China is the most comprehensive research platform for China's legal information. You can read more Current Awareness or manage alerts subscription at our website [Westlaw China](http://www.westlawchina.com) . If you have any questions for our service, please check <https://www.westlawjapan.com/serv/contact> . We appreciate your support!

