

中国知財ニュース IP NEWS in CHINA

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Proposed Legislation

[1] **Supreme People's Court seeks public opinions on matters relating to the applicable laws for investigations of intellectual property and competition dispute preservation cases** [Chinese](#)

[Supreme People's Court]

...The Supreme People's Court released the Interpretations of the Supreme People's Court of Matters Relating to Applicable Laws for Investigations of Intellectual Property and Competition Dispute Preservation Cases (Draft for Comments) on its website on Feb 26, 2015. According to the Draft for Comments, prior to the judgment or arbitration award come into force, parties to an intellectual property or competition dispute may lodge an application with the people's court for act preservation, i.e. ordering the respondent to, or not to, take certain actions. Pre-litigation act preservation applications concerning intellectual property or competition disputes should be submitted to the local people's court at the place to which the act preservation applies, the people's court at the place where the respondent is located which has the appropriate jurisdiction over intellectual property and competition disputes, or the people's court with the jurisdiction over the case. The Draft for Comments also lays down detailed provisions concerning application review for investigations of intellectual property and competition dispute act preservation cases, relevant matters stated therein, trial procedures and the handling of respondents refusing to comply with the ruling on act preservation.

The deadline for feedback submission is set to be Mar 30, 2015.

[2] **Draft of the Regulation on Service Invention presented in Beijing** [Chinese](#)

[State Intellectual Property Office]

...The Patent Protection Association of China recently held a meeting in Beijing to present the Draft of the Regulation on Service Invention. The Draft for Review comprises of 7 chapters and 44 articles. Amendments made in the Draft mainly concern know-how provisions, invention reporting bodies, inventor's pre-emptive rights in service invention transfer, the effectiveness of agreements on restrictions on inventor's legal rights, revenue distribution ratio and the jurisdiction over disputes related to service invention.

[3] **SIPO solicits public opinions on the Administrative Measures for Patent Agency**

(Draft) Chinese

[Legislative Affairs Office of the State Council]

...The State Intellectual Property Office (SIPO) drafted the Administrative Measures for Patent Agency (Draft for Comments) on Mar 25, 2015, and public feedback was solicited. The Draft provides that in the event of a patent agency changes any of its registered information, it should complete the corresponding modification formalities within the prescribed time limit, and ensure that the information registered with the SIPO is consistent with that registered with industrial and commercial administration department. The Draft also specifies the timing of annual report submission of patent agencies, required contents thereof, patent agencies obligations to ensure information truthfulness, and the timing and content of annual report disclosure by the SIPO. The Draft clarifies corrective measures in case of any inaccurate information contained in an annual report, and stipulates the measures to be taken by the SIPO and intellectual property bureaus in the provinces, autonomous regions and municipalities directly under the central government, and relevant time limits, against cases of annual reports containing false information.

The deadline for feedback submission is set to be Apr 14, 2015.

[4] Legislative Affairs Office of the State Council solicits public opinions on the Draft Regulations on Service Invention (Draft for Review)] Chinese

[Legislative Affairs Office of the State Council]

...The Legislative Affairs Office of the State Council solicited the public's feedback on the Draft Regulations on Service Invention (Draft for Review) on Apr 2, and relevant organizations and individuals may submit their suggestions by May 2, 2015. The draft for comments comprises 44 articles in 7 chapters, including general provisions, invention ownership, invention reporting and IPR application, incentives and rewards for in-service inventors, promotion of service invention intellectual property application and implementation, supervision and legal responsibilities and supplementary provisions. It is specified in the draft for comments, for service inventions, the corresponding employment organization has the right to apply for intellectual property right and to protect or publicize the invention as a technical secret, while the inventor(s) has/have the authorship and is/are entitled to receiving rewards and remuneration. For non-service inventions, the inventors are entitled to the authorship, IPR application and to invention protection or disclosure as technical secrets, and the employment organizations may agree with inventors, in rules and regulations formulated by law, the ownership of inventions completed using material and technical conditions provided by the organizations; where such an agreement is absent or not stipulated in the rules and regulations, relevant provisions of the service invention regulation should apply.

[5] SIPO solicits public opinions on the Draft Amendment to the Patent Law of the People's Republic of China (Draft for Comments) Chinese

[State Intellectual Property Office]

...The State Intellectual Property Office (SIPO) solicited public feedback on the Draft Amendment to the Patent Law of the People's Republic of China (Draft for Comments) on Apr 1. The public may submit their opinions and suggestions in writing to the Department of Treaty and Law of the State Intellectual Property Office by Apr 28, 2015.

Comprising of 9 chapters and 86 articles, the Draft for Comments contains substantive amendments to 30 articles, of which 18 are amendments to existing articles, 11 are newly added articles, and 1 existing article is deleted. The "Patent Implementation and Use" chapter is added. The draft amendment mainly involves:

(1) reinforcing patent protection to safeguard the lawful interests of patent owners; (2) facilitating patent implementation and utilization to fulfilment the value of patents; (3) determining the government's functions following the rule of law to build a service-oriented government; (4) developing the patent examination system to improve patent quality; (5) developing the patent agency legislative system to promote the healthy

development of patent service businesses.

[6] SIPO solicits public opinions on the Measures for IC Layout Design Exclusive Right Invalidation Review (Draft) [Chinese](#)

[State Intellectual Property Office]

...The State Intellectual Property Office (CIPO) solicited public feedback on the Measures for Review of IC Layout Design Exclusive Right Invalidation (Draft) on Apr 1. The public may submit their opinions and suggestions in writing to the Department of Treaty and Law of the State Intellectual Property Office by May 1, 2015. The Draft for Comments comprises 19 articles and standardizes examination procedures and standards for layout design exclusive right invalidation cases.

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Adopted Legislation

[1] BJIPO prints and distributes Implementation Rules for the Administrative Measures for Beijing Municipal Patent Subsidy (Trial) [Chinese](#)

[Beijing Intellectual Property Office]

...Beijing Intellectual Property Office (BJIPO) printed and distributed the Implementation Rules for the Administrative Measures for Beijing Municipal Patent Subsidy (Trial) on Mar 17, 2015. The Rules comprise 26 articles in 8 chapters, i.e. application method, online application, application with printed materials, application material examination and approval, fund disbursement and fast-track service.

According to the Rules, patent subsidy application combines online application with printed material submission. In principle, the applicant should file the application by him/herself. Where an application is filed via a patent agency, only one agency can be selected. An applicant may apply only once within a single application period. Where an application has already been filed via a patent agency, the applicant should not file another application by him/herself. Reputable enterprises and institutions whose applications are of a high standard may apply for and be qualified for the fast-track application service, subject to the BJIPO's approval. "Fast track (application) service" refers to the exemption from supplying supporting materials for patent application upon submission of printed application materials, i.e. qualified applicants only need to submit the Beijing Municipal Patent Subsidy Application Form upon submitting printed application materials, without providing relevant supporting documents. However, the fast-track service is applicable only to domestic patent subsidy applications.

The Rules came into effect as of the date of promulgation.

[2] Copyright Protection Center of China issues the amended Querying Measures for Computer Software Copyright Registration Filing [Chinese](#)

[Copyright Protection Center of China]

...The Copyright Protection Center of China issued the amended Querying Measures for Computer Software Copyright Registration Filing as Announcement No. 12 on Mar 12, 2015.

According to the Measures, the range of software registration filing queries covers: software copyright registration, and software copyright transfer contract or special permit contract registration. The query range also covers registration of certificate modifications, supplements, revocation, replacement or renewal.

Information contained in software registration files available for public queries includes: (1) software name, name of copyright owner, registration number, date of development completion, date of first release, method

of copyright acquisition and copyright coverage. (2) name of transferor or licensor, name of transferee or licensee, software profile, software contract registration number and date of registration. (3) registration number, modification or supplements, original content prior to modification or supplementation, contents after modification or supplementation and modification certificate serial number.

Information contained in software registration files unavailable for public queries includes: (1) application form, source program, documentation; (2) proof of identity of the registration applicant, copyright certification documents; (3) approval documents issued by the registration authorities; (4) source program or documentation sealed by software registrant; (5) other registration documents which should not be publicized as claimed by the software registrant.

[3] NCA calls for reinforcing order for online reproduction Chinese

[National Copyright Administration]

...The National Copyright Administration (NCA) issued the Notice of Order Reinforcement for Online Reproduction (Guo Ban Ban Fa [2015] No. 3) on Apr 17, 2015. According to the Notice, internet media organization reproducing others' works should comply with relevant provisions of copyright related laws and regulations; obtain the permission of the copyright owners and pay the relevant royalties; specify the name of the author and work and the source. The Notice requires that press and internet media organizations should set up a complete set of internal copyright management regulations; establish a database containing all works belonging to the organization or its employees as the copyright owners, and specify ownership information and authorization method and expiry details (in the case of works which may be used by others with the authors' consent); establish a database containing all works of external authors for which permission for reproduction has been obtained, and specify the permission source, and authorization method and expiry, etc. Press and internet media organizations should set up a copyright cooperation mechanism for online reproduction by entering into a copyright licensing agreement; tighten up on copyright review over reproduced works; jointly research into rationalizing the royalty pricing system; and further develop the license trading mechanism for copyrighted works.

[4] National Intellectual Property Strategy Promotion Plan 2015 issued Chinese

[State Intellectual Property Office]

...The State Intellectual Property Office (SIPO) issued the National Intellectual Property Strategy Promotion Plan 2015 on its website on Apr 10. The Promotion Plan specifies key tasks and working measures for strategy implementation in 2015. A total of 5 key tasks and 80 specific measures are established in the Promotion Plan. Key tasks for implementing the national intellectual property strategy in 2015 involve: reinforcing IP protection and encouraging innovation and invention; promoting IP applications and facilitating industry restructuring and upgrade; strengthening IP administration and related services, and promoting innovation transfer and transformation; further developing IP exchanges and cooperation and boosting China's global competitiveness; increasing policy support, and improving IP strategy implementation protection.

In terms of IP protection and incentivizing innovation and invention, efforts will be made according to deployments made in the Promotion Plan to expedite the disclosure of administrative IP enforcement information and the formulation of related credit standards; reinforcing the linkage between administrative IP enforcement and criminal justice; cracking down on patent infringement and counterfeiting, online piracy, counterfeit brand-name products and other related offenses; focusing on investigating serious counterfeiting and infringement cases with severe social effects. SIPO will tighten up on IP enforcement and intellectual property right protection concerning ecommerce activities and large exhibitions, strengthen IP supervision during goods production, processing and transport operations, and standardize practices in IP dispute settlement.

In terms of promoting IP applications and facilitating industry restructuring and upgrade, relevant tasks specified in the Promotion Plan include enhancing patent distribution and operational services in key

industries, expediting the establishment of the IP operation public service platform, increasing the coverage of pilot patent operations of enterprises directly under the central government, and strengthening patent navigation efforts; supporting the development of IP services and IP financial services, pushing forward the development of IPR pledge financing and insurance businesses; improving the online publishing license payment mechanism, strengthening brandbuilding and protection of national animation brands, and safeguarding geographical indications.

[5] General Office of the State Council prints and distributes Priorities for the National Crackdown on IPR Infringement and Counterfeits in 2015 Chinese

[Central People's Government]

...The General Office of the State Council printed and distributed the Priorities for the National Crackdown on IPR Infringement and Counterfeits in 2015 (Guo Ban Fa [2015] No. 17) on Mar 25. It was pointed out in the document that efforts should be made to further develop relevant laws, improve regulatory rules, and formulate and amend laws where necessary; facilitate the formulation of the ecommerce law; push forward the amendments to the copyright law, patent agency regulations; research into amendments to the patent law, drug administration law and intellectual property protection regulations for the customs; facilitate the formulation of the seed law; amend the measures for investigating unlicensed business operations and the cosmetic health supervision regulations; carry out relevant research and studies to push forward the development of business secret protection laws and regulations. It was stated in the document that regulatory enforcement should be strengthened revolving around current social affairs, involving: the special action for internet business will be extended by 1 year; implementing special rural-urban fringe special rectification; launching a nationwide motor gasoline and diesel special rectification program; implementing a "rectification" campaign to foster the image of "Made in China" overseas; crackdown software pirate; relevant departments should tighten up on the regulation of key industries.

[6] SIPO publicizes a list of intellectual property operators supported through equity investment Chinese

[State Intellectual Property Office]

...The General Office of the Ministry of Finance (MOF) and the General Office of the State Intellectual Property Office (SIPO) printed and distributed the Notice on Market-Based Promotion of Intellectual Property Operation and Services in Dec 2014, pointing out that "Support will be provided for implementing pilot projects in 11 provinces (e.g. Beijing) with a high concentration of intellectual property operations, supporting intellectual property operators through equity investment". Based on the results of an appraisal of 30 enterprises by experts selected by the Patent Protection Association of China from relevant areas with the authorization of SIPO, it is decided that equity investment pilot work will be implemented in 20 enterprises including Beijing Zhi Gu Rui Tuo Technology Services Co., Ltd. and China Patent Technology Development Co., Ltd. SIPO issued the Disclosure of Intellectual Property Operators Supported Through Equity Investment on May 21, 2015. The disclosure period is set to be May 21-28, 2015.

[7] NCA prints and distributes the Priorities for National Crackdown on Press and Publishing (Copyright) Infringement and Counterfeiting in 2015 Chinese

[National Copyright Administration]

...The National Copyright Administration (NCA) issued a notice on printing and distributing the Priorities for National Crackdown on Press and Publishing (Copyright) Infringement and Counterfeiting in 2015 (Xin Guang Chu Ban Fa [2015] No. 43) on May 5, 2015. It is stated in the Priorities that the NCA will implement the 11th online infringement and counterfeiting crackdown campaign ("Jian Wang Action") in 2015 jointly with the National Internet Information Office, Ministry of Industry and Information Technology and

Ministry of Public Security, focusing on cases of infringement and counterfeiting in music, television and film and literature websites, online cloud storage businesses, mobile internet and online advertising alliances. According to the Priorities, efforts will be made to promote the use of copyrighted software and organize training sessions on using copyrighted software among central enterprises, with local state-owned enterprises and financial institutions as the priorities; further increase the coverage of priority copyright supervision to include 3rd-party apps for smart mobile devices; focus attention on copyright supervision for music websites, and continue with supervision of key news, television and film and literature websites and influential online sales platforms; actively push forward the establishment of copyright protection cooperation mechanisms between copyright owners, organizations and online transaction platform enterprises; further develop the public warning and disciplinary interview system to urge relevant website to improve their self-discipline systems; and crack down on infringement upon the copyrights of standard works.

[8] SIPO prints and distributes the Guidelines for Building the Intellectual Property Alliance [Chinese](#)

[State Intellectual Property Office]

...The State Intellectual Property Office (SIPO) issued a notice on the distribution of the Guidelines for Building the Intellectual Property Alliance on Apr 24, 2015. According to the Notice, intellectual property alliances (IPAs) are industry development associations whose members are bound together by intellectual properties based on coordinated IP utilization. An IPA is a community comprising two or more market entities with highly correlated interests within the same industry voluntarily allied to safeguard the overall interest of the industry and to provide specialized intellectual property services for business innovations. It is an innovative organization aiming to drive coordinated industry development revolving around the integration and strategic utilization of intellectual property resources. Organizational forms of IPAs include corporate entity, social organization and cooperation organization. Objectives of IPAs are to strengthen intellectual property related operations in key areas of the relevant industries, support business innovations of member organizations and serve the needs of IP-based innovation and entrepreneurial projects.

[9] SIPO releases the new Administrative Measures for Patent Agency Services [Chinese](#)

[State Intellectual Property Office]

...The State Intellectual Property Office (SIPO) announced the Administrative Measures for Patent Agency Services via Decree No. 70 on Apr 30, 2015. The Measures comprise 46 articles, where the chapter on annual inspection of patent agencies and agents is deleted and replaced by the chapter on patent agency service supervision and regulation. According to the Measures, patent agencies should submit the annual report between Mar 1 and Mar 31 every year. The Measures would come into force as of May 1, 2015.

The Administrative Measures for Patent Agency Services issued by SIPO on Jun 6 2003 via Decree No. 30, and the Decision to Amend the Administrative Measures for Patent Agency Services issued by SIPO on Mar 28 2011 via Decree No. 61 would be simultaneously repealed.

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Government Policies

[1] Trademark registration and certification of well-know trademarks no longer belong to administrative approval items [Chinese](#)

[State Administration for Industry and Commerce]

...The State Administration for Industry and Commerce (SAIC) issued the Announcement on Amending Relevant Approval Items (Gong Shang Ban Zi [2015] No. 75) on May 25, 2015. According to the Announcement, in pursuance with the Notice of the Inspection and Reform Office of the State Council on Adjusting and Publicizing Approval Items in a Timely Manner (Shen Gai Ban Han [2015] No. 32), SAIC need to adjust the following administrative approval items: trademark registration is adjusted from a non-administrative licensing approval item to an item in administrative confirmation nature; well-known trademark certification is adjusted from a non-administrative licensing approval item to an item in administrative adjudication nature; special symbol registration is adjusted from a non-administrative licensing approval item to an item in administrative confirmation nature; record-filing of special symbol license contracts is adjusted from a non-administrative licensing approval item to an item in administrative confirmation nature.

After being adjusted to other authority items, the aforementioned items no longer belong to administrative approval items and are deleted from the SAIC administrative approval directory with immediate effect.

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Statistics

[1] Press conference on invention patents in China in 2014 held Chinese

[State Intellectual Property Office]

...The State Intellectual Property Office (SIPO) held a press conference on Feb 11 on granting of invention patents in China in 2014 and other relevant issues. In 2014, the SIPO processed an aggregate of 928,000 invention patent applications, up 12.5% year-on-year, marking the 4th consecutive year in which China remained the largest invention patent contributor in the world; invention patents granted totaled 233,000, of which 163,000 were domestic patents, up nearly 20,000 from the previous year. Of the total number of domestic invention patents, 89.6% or 146,000 were "on-the-job" inventions; and 10.4% or 17,000 were non-service patents.

Invention patents in China in 2014 were characterized by: (i) patent ownership per million people reached a new level – it reached 4.9 per million people as of end-2014, 1.6 higher than the target laid down in the "12th Five-Year Plan"; (ii) patent applications were significantly optimized structurally; (iii) the status of enterprises was further consolidated as the main entities for intellectual property creation; (iv) the distribution of patents within certain technical areas remain to be improved.

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Courts and Cases

[1] SPC issues the 10th batch of guiding cases Chinese

[Chinacourt.org]

...The Supreme People's Court issued the 10th batch of guiding cases via Fa [2015] Notice No. 85 on Apr 15, 2015. The 10th guiding cases include the lawsuit filed by Baidu Network Technology Co., Ltd. against Tsingtao Osun Network Technology Co., Ltd. et. Al. over an unfair competition dispute (Guiding Case No. 45) and the lawsuit filed by Shandong Lujin Industrial Co., Ltd. against Juancheng County Lu-Brocade Handicraft Co., Ltd. and Jining Lizhibang Home Textiles Co., Ltd. over trademark infringement and unfair

competition disputes (Guiding Case No. 46) etc.

[2] General Office of the SPC prints and distributes the 10 major IPR cases, 10 major innovative IPR cases and 50 typical IPR cases in 2014 Chinese

[Supreme People's Court]

...On Apr 14, 2015, the General Office of the Supreme People's Court (SPC) printed and distributed the 10 Major IPR Cases, 10 Major Innovative IPR Cases and 50 Typical IPR Cases Processed by Chinese Courts in 2014 as Fa Ban [2015] Notice No. 55. The 10 major intellectual property right (IPR) cases processed by Chinese courts in 2014 include the market dominance abuse dispute appeal [Supreme People's Court (2013) Min 3 Zhong Zi Civil Judgment No. 4] between Qihoo Technology Co., Ltd. and Tencent Technology (Shenzhen) Co., Ltd.

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News

[1] Shanghai customs publicly discloses details of the first IPR infringement case involving imported FTZ goods Chinese

[cnstock.com]

...On Apr 22, 2015, Shanghai customs publicly disclosed details of the first intellectual property right (IPR) infringement case involving goods imported into the Shanghai Free-Trade Zone (FTZ). As disclosed, Shanghai customs seized, at the Yangshan Port, 10,164 pairs of sports shoes printed with the "NIKE and the hook-shaped" trademark declared by a company for importation into the FTZ. It was confirmed by NIKE International Ltd. that the goods infringe on its "NIKE and hook-shaped" trademark rights. The market value of the seized goods is estimated to be over RMB 5 million through preliminary evaluation.

According to ZHENG Jugang, spokesman and deputy commissioner of Shanghai Customs, an important reason for successful uncovering of the goods is the effective implementation of the Sino-European Customs Intellectual Property Cooperation Action Plan 2014-2017. Under the Plan, Chinese and European customs respectively designated several ports to participate in the cooperation plan, exchange information and risk details relevant to the cases discovered via the inter-port network, and conduct joint risk analyses. As in the case disclosed, the Shanghai customs and Hamburg customs (Germany) are both designated ports under the Cooperation Action Plan.

[2] 7 new language versions added for the Chinese patent retrieval and service system Chinese

[China Intellectual Property Rights Protection Website]

...In an effort to meet the needs of foreign users, the State Intellectual Property Office (SIPO) added 7 new language versions of the patent retrieval and service system, in addition to the original English version. The newly added languages are Russian, Spanish, Portuguese, German, Arabic, Japanese and French. The new versions were officially launched on Apr 27.

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